

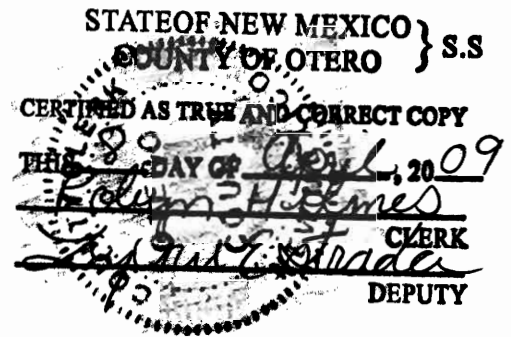
**Regular Meeting**

**March 19, 2009**

The Board of County Commissioners, in and for the County of Otero, State of New Mexico, met in a Regular Meeting at the Otero County Courthouse in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 6:00 p.m., March 19, 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
Timothy Smith	County Manager
Dan Bryant	County Attorney
Pamela Heltner	Commission Liaison
Lynn Estrada	Deputy Clerk



Dan Bryant gave the invocation. Commissioner Rardin led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

**1. Consent Agenda:**

Commissioner McGinn made a motion to approve items under Consent Agenda number 10 through 24. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

**2. Public Hearings:**

a. Commissioner Rardin made a motion to open the Public Hearing on the approval of the

proposed issuance of liquor license #A-579789 to McGinn Enterprises, Inc., doing business as Arena Blanca Winery, located at 7338 U.S. Highway 54-70, Building A, Alamogordo, Otero County, NM.

The motion was seconded by Commissioner Moore. Commissioner McGinn has recused herself from all four of these public hearings. A vote was taken and the motion passed unanimously.

The Chairman recessed the Public Hearing. Commissioner Rardin made a motion to open the Public Hearing on the approval of the proposed issuance of liquor license #A-576312 to McGinn Enterprises, Inc., doing business as San Tomas Vineyards/Pistachio Tree Ranch, located at 7338 U.S. Highway 54-70, Building A, Alamogordo, Otero County, NM. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

The Chairman recessed this Public Hearing. Commissioner Rardin made a motion to open the Public Hearing on the approval of the proposed issuance of liquor license #A-576314 to McGinn Enterprises, Inc., doing business as Arena Blanca Winery, located at 7338 U.S. Highway 54-70, Building B, Alamogordo, Otero County, NM. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

The Chairman recessed the Public Hearing. Commissioner Rardin made a motion to open the Public Hearing on the approval of the proposed issuance of liquor license #A-576315 to McGinn Enterprises, Inc., doing business as McGinn Vineyards, located at 37 Highway 82, Alamogordo, Otero County, NM. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

Commissioner Rardin opened the Public Hearing on the proposed issuance of liquor license #A-579789 to McGinn Enterprises, Inc., doing business as Arena Blanca Winery.

Commissioner Rardin asked if there was any discussion from the Commission. Commissioner Moore stated that all four of these Public Hearings are housekeeping matters. There was a death in the family and there were multiple names on the license and this is an effort to correct in name only, the issuance of the license. All of these facilities have been open and functioning for several years and the process is not changing.

Tim McGinn stated that since his partner has passed away, the State requires a name change to be re-licensed. This is all we are doing.

The Chairman opened the Public Hearing on license #A-579789.

Commissioner Moore made a motion to approve the issuance of liquor license #A-579789 to McGinn Enterprises, Inc. doing business as Arena Blanca Winery. The motion was seconded by Commissioner Rardin. A vote was taken and the motion passed unanimously with Commissioner McGinn abstaining. The Chairman closed the Public Hearing.

The Chairman opened the Public Hearing on license #A-576312

Commissioner Moore made a motion to approve the issuance of liquor license #A-576312 to McGinn Enterprises Inc. doing business as San Tomas Vineyards/Pistachio Tree Ranch. The motion was seconded by Commissioner Rardin. A vote was taken and the motion passed unanimously with Commissioner McGinn abstaining. The Chairman closed the Public Hearing.

The Chairman opened the Public Hearing on license #A-576314

Commissioner Moore made a motion to approve the issuance of liquor license #A-576314 to McGinn Enterprises, Inc. doing business as Arena Blanca Winery. The motion was seconded by Commissioner Rardin. A vote was taken and the motion passed unanimously with Commissioner

McGinn abstaining. The Chairman closed the Public Hearing.

The Chairman opened the Public Hearing on license #A-576315

Commissioner Moore made a motion to approve the issuance of liquor license #A-576315 to McGinn Enterprises, Inc., doing business as McGinn Vineyards. The motion was seconded by Commissioner Rardin. A vote was taken and the motion passed unanimously with Commissioner McGinn abstaining. The Chairman closed the Public Hearing.

### **3. Unscheduled Citizen Communications:**

a. Constance Maze from Chaparral, New Mexico, spoke to the Commission on behalf of the seniors in Chaparral. Ms. Maze is asking the Commission if there is any way they can help the outbound delivery of meals to the homebound. Dona Ana is helping us out with three days a week, but there are some seniors that need the five days a week. If there is anything the Commission can do to help us with the five days, it would be greatly appreciated.

Commissioner Moore would like staff to look into the situation and give us an evaluation and report at the April meeting.

Commissioner Rardin stated that we will be holding a Commission Work Session in Chaparral on April 8<sup>th</sup>. The meeting place hasn't been decided yet and asked Ms. Maze to spread the word so the community will come and talk to us.

b. Bill Gomez, District Director for Congressman Harry Teague, wanted to come by and meet the Commission. Mr. Gomez stated that if the Commission has any issues that they need help with, please don't hesitate to call us.

c. Jerry Carroll a Lincoln County resident stated that he wanted to make everyone aware of

House Resolution 875, The Food Safety and Modernization Act. Anyone who grows food will come under federal jurisdiction if this passes. They will be able to inspect your food and if you don't have a premises ID of where you are growing it you can be subject to a 1 million dollar a day fine. A private garden could also come under this Act.

#### **4. Elected Officials, Department Heads**

a. Tim Smith, County Manager, discussed the Commission meeting schedule. Mr. Smith recommends that we do the Budget Work Session at 8:00 a.m on Wednesday, April 8<sup>th</sup> and then move down to Chaparral for the regular Work Session at 6:00 p.m. The Commission stated that this would be fine with them.

b. Mr. Smith stated that the RFP for the Chaparral Health Clinic needs to be discussed in Executive Session.

c. Tim Smith discussed the Ethanol Fuel Production and Wastewater Remediation Feasibility Study RFP's. Mr. Smith and Commissioner Rardin went to New Mexico State University to discuss the possibility of an RFP with them. The university is recommending doing a Joint Powers Agreement rather than doing a RFP. We would send them a proposal and they would do the analysis and science. Commissioner Moore thought that a MOU, (Memorandum of Understanding) should be used instead of a JPA. With a JPA it means that both entities have the authority to consummate on their own and they choose to do it in a partnership fashion. He doesn't believe the university has that authority. Commissioner Rardin stated that the university has a standing JPA, similar to what we are asking. It will let the County utilize them if we need them and it doesn't cost us anything to hold them. Each one, will have to make a separate contract out of the JPA, if we have a study for them to do. Commissioner

McGinn asked if it was task specific. Commissioner Rardin stated that this is correct. Commissioner Moore still believes that the JPA is the wrong vehicle here. Mr. Smith stated that we will research it to see which one we should use. Dan Bryant, County Attorney, stated that the action we are looking at tonight is just to approve the RFP's in order to get them out. If the university is suggesting a Joint Powers Agreement, it may be because they have some access to some funds that they want to contribute to the process. We will have to talk with them to see why they are thinking a JPA.

Commissioner McGinn made a motion to go out for an RFP for bids to conduct a feasibility study for a project to make biofuel from cattails. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

d. Presentation of a Safety award to the Otero County Detention Center Administration/Transportation Staff. Mr. Smith presented the safety award to the staff.

**5. Commission Discussions/Action items:**

a. Commissioner Rardin discussed the R.A.C. (Resource Advisory Committee).

Commissioner Rardin stated that under the Secured Rural School Communities, the money that we are receiving, the Forest Service has to set-up a Resource Advisory Committee. This committee will be made up of four counties. The Commission needs to decide tonight if we are going to join Lincoln County, Sierra County, Grant County and possibly Catron County to form a R.A.C. Mr. Smith stated that in order to sit on the R.A.C. you must submit an application. If you are picked, you have to submit to a background investigation since this is done on a Washington level.

Commissioner Moore stated that a few months ago we chose the way we receive some funding through the Forest Service, to take another route that we have never taken before. When we voted to do that it

allowed us access to additional funds through the Forest Service. Part of that is the Title II money. For us to receive those funds, it requires that we seat a Board. The 15 member Board requires participation from a variety of fields of expertise. Economics, Forestry, Minerals and Mining, all of these have to be involved with this Board. They will help the Forest Service develop their Forest Plan and what projects we would consider. We don't have to join the other Counties for one big R.A.C. Otero County can seat it's own R.A.C. Board and have the 15 members from our community and deal with issues on our forest. The Forest Service is telling us that it is difficult to keep that 15 member Board seated with the qualifications that are needed. If it's not properly seated and represented, we will lose the money. If we don't seat the Board and use their recommendations as we develop plans in the forest the \$100,000.00 per annum goes away. So the question tonight is, do we partner with 4 other sister counties that have forests in similar condition as ours, or do we choose to go alone and seat our own R.A.C.?

Commissioner McGinn stated that's combining all the funding for that Title Program for all those counties together. Does that mean there will be only one project picked between the 4 counties? Mr. Smith stated the R.A.C. will decide that.

Commissioner Moore made a motion that we approve entry into the 4 or 5 County R.A.C. as well as develop our own inter-County R.A.C. to respond to the proposed projects that may come from the fruits of the Title II money. The motion was seconded by Commissioner Rardin. Commissioner McGinn believes we should form our own R.A.C. and doesn't see the advantages of forming with the other counties. Commissioner Moore stated that the only advantage that he sees is extend a hand of cooperation to these sister counties. When we didn't have enough money to go to Federal Court and we all sued the Forest Service together, these are the Counties that were as broke as us. We all threw

money in and hired the same lawyer and we all went to battle together. There is a certain amount of faith in these counties, because they have suffered from the same oppression as we have. He is OK to join with them in discussion about where we should take the Forest Service and how we should have better involvement in that arena. He is afraid not to join, for fear that they will run over the top of us. If they divide us they will conquer us. We can do our own thing also.

Janet White is concerned with this last minute request from the Forest Service. It doesn't give the Commission much time for discussion. Her second concern is that Commissioner Moore is making the assumption that Lincoln County wants us there as part of the R.A.C. Commissioner Rardin stated that yes they do want us there, they have already voted to have Otero County on the R.A.C. with them.

Commissioner Moore stated that we have known about this for about 6 months, it was a requirement of the Title II money. Since we elected to take these funds in this format, we didn't have a pre-seated Board. The challenge has been for the Forest Service to implement Boards in these Counties that chose to take this Title II money. The Counties have been the ones not figuring out how we develop this. This Commission has been in touch with them for the last 5 months inquiring when we are going to start this R.A.C. and how do we move forward with this money.

Ms. White stated that she is in agreement with Commissioner McGinn in that if we have any input whatsoever on our local R.A.C., giving input to the Forest Service R.A.C., we need to do it here first.

The Board thanked Ms. White for her comments.

A vote was taken and the motion passed 2-1 with Commissioner McGinn voting against.

b. Commissioner Rardin had a letter that he would like the Commission to sign to the Hubbard Foundation. They donate money to the Counties for many projects.

We owe these people a great deal of gratitude.

c. Commissioner McGinn gave an update on the Ambulance service for Mescalero. She will be meeting with Mescalero Indian Health Services. She met with the PRC, Larry Lujan to discuss what levels of services Mescalero would like to enter into with our joint Ambulance Agreement in Otero County. Commissioner McGinn will keep everyone updated.

**6. Presentation:**

Tim Smith, County Manager, gave a power point presentation on the Solid Waste Proposal. The options that staff sees for the Commission to consider would be to continue the existing agreement with Green Tree at \$990,666.00, we join the Authority as a voting member, or the County take the operation back.

Commissioner McGinn stated that she sees the benefits of having the County continue as we did before to oversee the operations of the Convenience Center. The money spent on this service will stay in Otero County and now that it is in a workable condition, we can continue to operate it more efficiently than it was before. It will give us direct oversight of the service we are providing and of the operations at the Convenience Center.

Commissioner McGinn made a motion that the County takes over the operations of our Convenience Center. The motion was seconded by Commissioner Rardin.

Commissioner Moore stated on the history of part of this, we went through 2 managers and we 100 percent funded the managers request and we exceeded that. We didn't have the proper personnel in place that had the experience and the skills that they needed to properly manage that endeavor.

His concern is, that person has a unique skill set and if you go out and try to hire that individual, we will have to pay a salary of \$90 to \$100,000.00 to find the person that has the background to take over this endeavor and run it. He doesn't believe that this person would be able to run it better or more efficiently than Green Tree is running it now. In the end Commissioner Moore believes that we will be paying more and that is just his projection for the future. He is pleased with Green Tree and their operation and we haven't had a violation in quite some time. We have a streamlined operation and he is all in support of staying with our current facilitator until such time as we can see that it's a monetary benefit to us to make a change.

A vote was taken and the motion passed 2-1 with Commissioner Moore voting against.

**7. Executive Session:**

Commissioner McGinn made a motion to go into Executive Session to discuss items under C. Personnel-status report misconduct investigation, D. Land-Acquisition, G. Contracts-PSAP and the Chaparral Medical Facility Contract proposal. 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 only one item under G. Contracts, recommendations from the PSAP Board on future actions for emergency safety and the community. The motion was seconded by Commissioner McGinn.

Commissioner McGinn	yes
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Agreement in accordance with the recommendations that Mr. Trujillo has set forth tonight.

Commissioner McGinn made a motion that the County Commission supports the recommendations of our Public Safety Answering Point Board and request the Board to present a resolution to return the surcharge of cell phones and land lines to Otero County as recommended. We also receive an amended Joint Powers Agreement to strike consolidation and continue our Public Safety Answering Point Board and to direct staff to purchase the equipment and place the item on the subsequent agenda for approval by the Board of County Commissioners. The motion was seconded by Commissioner Moore.

Commissioner Moore directed staff to go ahead and purchase the equipment. We need to follow the process that is required within the act and request the service and submit that cost to the Department of Finance as outlined in the Act rather than just go and purchase it.

Commissioner McGinn amended the motion to say, direct staff to begin the process of placing the item on the agenda to purchase the Enhanced 911 equipment. The amended motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

Commissioner Moore made a motion to go back into Executive Session to conclude the discussions on items 7. Chaparral Medical Clinic RFP, C. Personnel-Status Report Misconduct Investigation, D. Land-Acquisition. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Rardin	yes

Commissioner McGinn made a motion to come out of Executive Session having discussed the other items listed, Personnel status report of misconduct investigation, Land-Acquisition, and Chaparral contract for medical services. The motion was seconded by Commissioner Moore. Roll call was taken as follows:

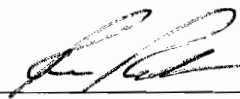
Commissioner McGinn	yes
Commissioner Moore	yes
Commissioner Rardin	yes


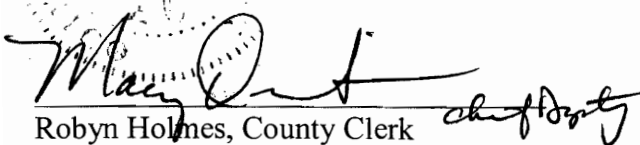
Commissioner McGinn made a motion under land acquisition to authorize management to negotiate land acquisition within the limits discussed. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

Commissioner McGinn made a motion under Contracts for Chaparral Contracts to approve the RFP for the Chaparral Health Clinic RFP. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

There being no further business before the Board, the Chairman adjourned the meeting at 9:15 p.m.

APPROVED:

  
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Ronny Rardin, Chairman

  
ATTEST  
  
Robyn Holmes, County Clerk *chief deputy*

Regular Meeting March 19, 2009