

Regular Meeting

April 12, 2005

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 Chair person at 6:00 p.m., April 12, 2005; and she announced that reasonable notice for this meeting was given to the Alamogordo Daily News, and to Radio Stations, KPSA, KINN and KYEE.

Present:

Clarissa McGinn	Chair person
Doug Moore	Vice-Chairman
Michael Nivison	Member
Ruth Hooser	County Manager
Ray Backstrom	Assistant County Manager
Dan Bryant	County Attorney
LaDonna Perry	Department Assistant
Bill Lee Parker	Road Superintendent
Lynn Estrada	Deputy Clerk

DRAFT

Commissioner Moore gave the invocation. Commissioner McGinn led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

1. Consent Agenda:

Commissioner Moore made a motion to approve items A, Minutes, B, Bills List #44, #45, #46, C, Health Care Services monthly report, D, Personnel, E, Purchasing, and Resolutions & Agreements 7-12. The

motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

See pages

2. Citizen Communications:

a. Jerry S. Johnson requesting Otero County Road Department to chip-seal 1.0 miles of Taylor Ranch Road and 1.9 miles of Pasa Por Aqui Lane. Property owners will pay for 1.9 miles now and Otero County chip-seal the remaining mile in 2007.

Commissioner Nivison made a motion to approve the request. The motion was seconded by Commissioner Moore. Commissioner Moore stated that the 1.9 miles is a cooperative agreement and the 1.0 miles is not. Bill Parker, Road Superintendent, stated that the 1.0 is a bus route and it will be put on the list for next year. A vote was taken and the motion passed unanimously.

b. South Canyon Road Property Owners/Michael Shyne requesting approval from the Otero County Commissioners for property owners at their expense, to install and maintain a controlled access gate on the south 1/2 mile of Canyon Road and/or requesting the County to vacate Canyon Road.

Commissioner McGinn stated that at our last meeting Mr. Shyne requested to have approval from Otero County to permit the property owners, at their own expense to install and maintain a controlled access gate. Mr. Shyne stated that the south 1/2 mile of the County's Canyon Road serves and is within the 425 acres. The 35 property owners in this acreage have had quite a few problems over the years ranging from drunk driving, speeding, accidents, gunshots, burglar, to destruction of properties. We are asking the County to allow the property owners, at our expense to close off Canyon Road at the 1/2 mile point, install a gate and allow us to better control the problems out there. There are a number of property owners present tonight who support this request. Please see attached list for names of owners that were present. Commissioner McGinn stated that we have received quite a few letters from the property owners concerning this issue of

gating off this community and still provide access to all the property owners within this acreage. Staff was directed to notify all the property owners to make sure this was what all the property owners want. Once the letters are sent we can start the process of approving the abandonment and vacation. This will then have to go through a Public Hearing at a later date.

Brian McGuire, Director of Community Development from the City of Alamogordo approached the Board.

He discussed how the City is going to handle the traffic flow from the Scenic Drive area out South and West of Town. The City is in the middle of a study right now to find a continuation of the route from Martin Luther Drive to this area. Mr. McGuire has some concerns with the idea of the County vacating the County easement. The City is against this request. He is asking the County not to take this action until all the studies are done. Commissioner McGinn stated that at this time this it's not an action that we would be able to vacate this evening. We will have to publicize and hold a Public Hearing. Commissioner McGinn asked where the City is in looking at the arterial routes? Mr. McGuire stated that we have obtained the services of an engineering firm to do the study. The draft plan looking at alternative routes should be completed by the next 30 days. The City is asking the Board not to take any action until the study is done. Mr. Shyne stated that he understood that there are several steps in the process, and he asking the Board to let the process continue while the City is working on the plan. Dan Bryant, County Attorney, stated that once the letter goes out to the property owners and we are comfortable that we have captured everyone then we will schedule a Public Hearing 30 days from the date the letters went out. Mr. Bryant stated that we are probably looking at the July meeting that this item will be on the agenda. This will give the City plenty of time to finish their study on the South Scenic route.

Commissioner Moore made a motion to direct staff to make the necessary steps that are required to begin the requested vacation of the southern half of Canyon Road. The motion was seconded by Commissioner

Nivison. A vote was taken and the motion passed unanimously. See pages

3. Public Hearings:

The time being 6:30 Commissioner McGinn recessed the Regular Meeting and called the Public Hearings to order.

a. Consider a preliminary approval for a liquor license transfer, or issuance of new licenses for applicant-GSG Incorporated (Chef Lupe's Tunnel Steakhouse) business, located at US Hwy 82 High Rolls, NM for transfer of ownership only.

b. Consider approving Ordinance No. 01-05 regarding amending the Otero County Subdivision Ordinance to implement the Sacramento Mountain Checkerspot Butterfly Conservation Plan.

Commissioner Moore made a motion to recess the Public Hearing on Ordinance No. 01-05 until the conclusion of the Public Hearing on the liquor license transfer for Chef Lupe's. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

Tava Bonnell approached the Board representing Chef Lupe's Tunnel Steakhouse. Commissioner McGinn stated that State has approved the liquor license transfer. Once this process happens, it's sent to the local government for approval.

Commissioner Nivison made a motion to for preliminary approval for a liquor license transfer for Chef Lupe's Tunnel Steakhouse, License No. L#7000/A-419410. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

Commissioner McGinn closed the Public Hearing for a liquor license transfer for Chef Lupe's and called the Public Hearing for Ordinance No. 01-05 to order.

Hans Steinhoff, a property owner south of Cloudcroft approached the Board. Mr. Steinhoff stated that he thought the Fish and Wildlife Service were going to attend to explain the Ordinance. Commissioner

McGinn stated that she would like to have Dan Bryant explain the Ordinance as proposed. Dan stated that the essential piece of this is that people that subdivide within the 50 mile radius around Cloudcroft, they will be required, before starting construction, to take a look to make sure there are no food plant species on that land. The requirements are that we look at the Checkerspot Butterfly Recovery Plan that the County, Fish and Wildlife Service, Village of Cloudcroft and Lincoln National Forest developed, look for the food plant species in the area. If there are plant species in the area of building, remove them and transplant into areas that aren't going to be disturbed. Commissioner McGinn stated that this requires the subdivider to apply for a permit to do this. Dan stated that this is correct. The way it was set up, it would be part of the subdivision approval process that we have in place. Commissioner McGinn read section 7 of the ordinance that states that if it's determined that your property is within the area that could be a butterfly habitat you will be asked to be provided with construction activity about how you are going to minimize the loss of Sacramento Mountain's Butterfly habitat, food plant species and food plant species habitat. Further requiring the subdivider to relocate certain parts of the plant species and to monitor its activity. Brian McGuire, from the City, asked if the 50 mile radius included Alamogordo? Dan stated that this was a mistake in the Ordinance on his part. It is designated by the Checkerspot habitat map that was developed by US Fish and Wildlife. Its gross coverage is 54 square miles. Cloudcroft is in the center of these 54 square miles. But known habitat and potential habitat for the Butterfly, which is a part of the 54 square miles that this ordinance sits on is only a fraction of the 54 square miles. Commissioner McGinn stated that we are talking about one region and one species, but if we start this for one region and one species we are going to be facing a lot of other species in the future that doesn't just impact 50 acres in Cloudcroft and she finds this objectionable.

Commissioner Moore stated that we don't know how many Butterfly's there are or where they go in the

winter. Even with our best science we have no idea where they go in the winter time. Our choice is to either enter into a Conservancy Plan and we control our own destiny about how we are going to deal with this species, or we do nothing. If we don't do anything there's not enough science to say that this Butterfly is not threatened or endangered. Fish and Wildlife would step in and issue a threatened or endangered status on this Butterfly, and then we would have no choice and no say. The Conservation Plan is an appropriate method to join into with the Federal agencies to study this species. Once the Butterfly gets listed as threatened or endangered there is a delisting that takes years. With the Conservation Plan the Butterfly will not be listed as threatened or endangered until we have more information at the conclusion of this study period that we set-up for ourselves. Commissioner Moore believes that we have better control with this Plan in place then having someone from Washington tell us how to operate.

Dan Bryant would like to explain to everyone present what the County's position is. When we started these meetings with the US Fish and Wildlife Service the suggestion was made to their scientists that they might have better luck if they would attempt to find a way to protect and preserve the Checkerspot Butterfly. This draft ordinance is limited only to the habitat or potential habitat as defined on the map. It is defined as high mountain meadows that are above 7,000 feet and the canyon bottoms, where they haven't actually demonstrated that they have by sightings that the butterfly already exists. This ordinance came out of meetings between the US Fish and Wildlife and the County as we worked on the restoration plan. If anyone present would like to work on the language in the draft they are more than welcome at the Commissions direction.

Rick Lesstine approached the Board and stated that he has been ranching in the mountains for over 20 years. We have put up with government restrictions for endangered species all those years ranging from the Spotted Owl to the Prickly Poppy and now the Butterfly. If anything can be done to not list the Butterfly as

endangered it's a good move. He commends Commissioner Nivison and Commissioner Moore for the work they have done on this ordinance.

Dan Bryant stated that he can conduct a meeting and gather the proposals to present to the Board to choose which ones to incorporate into the Ordinance.

Commissioner Nivison made a motion to approve Ordinance No. 01-05 for the Sacramento Mountain Checkerspot Butterfly Conservation Plan for publication. The motion was seconded by Commissioner Moore for discussion. Commissioner Moore stated that we need to incorporate and review all comments that come in, and have another Public Hearing.

Commissioner Nivison amended his motion to approve Ordinance No. 01-05 publication of the Sacramento Mountain Checkerspot Butterfly Conservation Plan and have an additional Public Hearing on the May 3rd Commission Meeting. The amended motion was seconded by Commissioner Moore. A vote was taken and the motion passed 2-0 with Commissioner McGinn voting no.

The time being 7:23 p. the Chair person closed the Public Hearing and returned to the Regular Meeting.

4. Commission Discussion:

a. Doug Moore- Letter to BLM stating the County's position regarding the quality of science and use of contractors to conduct studies on BLM land in Otero County.

5. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss personnel issues. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Nivison	yes

Commissioner Moore made a motion to come out of Executive Session and stated that all that was discussed was personnel issues and no decisions were made. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Nivison	yes

There being no further business before the Board the Chair person adjourned the meeting at 7:55 p.m.

APPROVED:

Clarissa McGinn, Chair person

ATTEST:

Robyn Silva, County Clerk

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