

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 Administration Building in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 6:00 p.m., May 21, 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:

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

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

1. Presentation:

Presentation of a Heritage Preservation Award, Red Brick Schoolhouse.

Timothy Smith, County Manager, stated that he attended a ceremony in Santa Fe to receive an award for Otero County regarding the Red Brick Schoolhouse.

2. Scheduled Citizen Communication:

a. Tammy Bean, Economic Development Administrator, introduced Bob Ewing, a Managing Partner from Premier Pellets and Jerry Wharf, Manager from the Shaving Mill. Ms. Bean has provided the Commission with some information on the tax abatement and the total amount for the tax abatement. The Board thanked Ms. Bean for the information provided.

3. Public Hearing:

Commissioner Rardin called the Public Hearing on the approval of the preliminary plat and disclosure statement for the proposed Desert Bloom Subdivision to order.

Diane Romo, Subdivision Coordinator, approached the Board with the preliminary plat and the disclosure statement. Commissioner Rardin stated that the packet was nicely put together and there was one negative comment which was answered and signed off on.

Commissioner Moore made a motion to approve the preliminary plat and disclosure statement for Desert Bloom Subdivision. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

The Chairman closed the Public Hearing.

4. Scheduled Citizen Communications:

a. Tom Chagolla, U.S. Census Bureau, introduced A.J. Harris, Director of Field Operations. Mr. Chagolla asked Mr. Harris to be here tonight to focus on the address canvassing and the field operation aspect of the census.

Mr. Chagolla presented a power point on the 2010 Census. Mr. Chagolla has given the Commission an extensive packet on the census data. Mr. Chagolla stated that one of things that the Commission could do for Otero County is to form a complete count committee. This would promote the census and ensure

an accurate count in Otero County. The other thing that Mr. Chagolla would like to focus on is the field operation aspect, the address canvassing. Mr. Chagolla stated that A.J. Harris is the Director of Field Operations for the entire operations of address canvassing in Southern New Mexico.

A.J. Harris introduced himself to the Commission. Mr. Harris stated that our district in Alamogordo and Otero County falls under District 1. We go from just North of Las Cruces, Nassau Road all the way to Belen, everything east to include Lincoln and Otero County, all the way over to Chaves, Lee and Eddy County. We have on the ground right around 100 individuals going door to door. The areas that primarily affect Otero County, other than White Sands Missile Range are basically done at this time. It took us about 3 weeks to complete. The only information that we are collecting at this time is the physical address of the house. We don't get into names of any way shape or form at this time. Everything is secured into the hand held computers and nothing is released for 72 years according to the Constitution. This is developing a mailing list so we can mail out the surveys. The survey will come out in March of next year and consist of 10 questions. The more accurate count we have the more representation we have in the US House of Representative. Mr. Harris explained how the hand held computers work with the GPS System. Mr. Harris can assign from a laptop a certain number of assignment areas which is a region, to each individual. It brings up the address list provided by the different Luca Projects and some of the earlier projects that the County has participated in and we go through and verify this. We can do the maps and update GPS here and send text messages to and among ourselves. This is a very secure signal. Once it goes into the unit it is immediately encrypted into the computer and transmitted over secure lines that we have set up. When we are at a house, it takes about 45 seconds to do the entire house and the address update. Mr. Harris showed the Commission the crew leader badges, identification badges, a U.S. Census bag and the signs that go on

the vehicles that will identify the census takers. When we deal with rural areas, most of our census takers wear a large orange reflective vest that displays who we are and what we are doing. This is done for their safety so people don't think something else is going on. When we are at each address we give out a privacy notice. When we speak to anybody we give out a confidentiality notice that is in English and Spanish. We give this notice to everyone that we speak to. Mr. Chagolla stated that every census worker, everybody that works for the census takes an oath of office that they have to adhere to these strict rules of confidentiality. Mr. Chagolla asked Mr. Harris to be here because this aspect is very important. This field operation is very critical for the census and is the foundation for our census operation. We want to make sure everyone is counted.

Commissioner Moore stated that the data you are gathering is addressing only. The forms aren't out yet and that endeavor will begin in late 2009 early 2010. It needs to be a 2010 count. There are 10 questions and not a single question on there asks you about your nationality. We in Otero County feel that some of the areas were dramatically under counted and the Census Bureau agrees with us.

Commissioner Moore has heard some concerns from where your folks are going to do the addressing and putting them into the little computer, some blogs are saying "that's the man". They are figuring out when they want me how to come get me and indeed this is not the case. In this country we are seeing a population shift from the major metropolitan areas in the east and west to the center part of this country.

We have struggled since he has been a Commissioner, with trying to access federal funds to be able to operate clinics in the area of Chaparral. It's a big community and growing by leaps and bounds, but we are stuck with the demographics that we got from 2000. In order for us to be able to paint a true picture and access federal dollars, is to get an accurate count. Those monies that they are talking about, that's not a gift, that's our money that we paid in taxes to the federal government and it needs to come back to

serve us in this community. We need it to come home so we can have good teachers, good schools, good books and provide that part that the federal government is supposed to provide to the folks that live in this country. So it's very important that we get an accurate count and be sensitive when we collect the data. Commissioner Moore stated that it would be good to make the forms available at the local banks, the water billing departments and different places. The public could fill them out on their own time and send them in. Mr. Chagolla stated again that it's about the count, not anything else.

Dan Bryant stated that, did he understand that the ten questions don't include a question about race or nationality. Mr. Chagolla stated that there is a question that asks what your ethnic origin is.

Janet White stated that about a month ago she became aware of the GPS potential capabilities. She has a concern. She understands the need to take a census and the safeguard of the forms that are mailed out.

She does not understand why you have to take GPS coordinates of homes in order to mail out the forms. Mr. Harris stated that we have addressed this concern many times. The reason why we do the address canvassing now is to basically fill up the mailing list. In our efforts to provide the most accurate and most complete mailing of these forms, there may be a case where mail comes back to us undeliverable. At that point, what we will do is have an individual hand deliver a survey to the house. That's why we use the GPS for later operations. Ms. White stated that you are taking GPS Coordinates simply to make it easier for you in the event that you have to go back out. Mr. Harris stated that is correct and it stays in our program. Ms. White stated that she would be more comfortable if it was a little more time consuming and you are not taking GPS coordinates. Mr. Chagolla stated that all this information is confidential. We don't share information with anybody, not even the President of the United States.

R.L. Posey from Mayhill stated that a lot of folks live out in the rural areas that get their mail at a Post

Office Box like we do. There is no reason for them to come to our house to get a GPS position.

Commissioner Rardin stated that if he is understanding correctly, that if you don't answer back through your post office they will come to your house. Commissioner Moore stated that as far as GPS mapping, that's technology that the County uses. Is the information from the questionnaire and the address information you have, is it ever combined? Mr. Chagolla believes that yes it is. If you don't want to respond to the questionnaire it is your choice, all you have to do is tell them.

b. RL Posey-discuss grazing and elk issues.

Mr. Posey gave a report on the potential additional elk problem we have in the mountains. Mr. Posey gave a background report on the elk and the ranchers.

Commissioner Moore spoke about the role the County has played in the elk issue with the Forest Service and the Fish & Game. We need a Game Commission that is sensitive to our needs on an annual basis. We continue to work to those ends. There will be a minor stake holders meeting tentatively June 15th to be hosted by the County with the Forest Service and Game & Fish. The sole purpose is to talk about elk and their impact on the forest and how we can strategically work toward common ground.

Dan Bryant stated that he had 2 things to round out the conversation. Number 1, the ordinance authority to protect the health, welfare of the citizens is at NMSA 1978, Section 4-37-1. That is the statute that Mr. Posey was referring to. Secondly, beginning in the 05, 06 timeframe, the County in its work with the Range Improvement Task Force from New Mexico State University, our consultants, Dr. Thal, Dr. Garrett on tree density changed our focus in terms of our interface and our comments on NEPA documents being prepared by BLM and the Forest when they were doing their planning work. We shifted from looking at the particular proposal and commenting on whatever that might have been. For example, herd cuts on the allotments on the Lincoln National Forest. We turned our approach to

looking at ecosystem health and restoration. We are looking at the whole system of forest health. How many trees, what are the meadows like, how does the current mosaic between tree stand and meadows look in comparison to the pre-settlement mosaic. How do we restore that pre-settlement mosaic, how we look at watershed health, how do we look at aquifer recharge, the entire gamete of ecosystem health. Part of what happened when we were going through the Public Hearings that we were having when we were looking at an elk ordinance, was that we were going to damage our credibility and the consistency of our approach to the health, safety and welfare of our citizens. If on the one hand we say to the federal agencies, you need to look at ecosystem health and restoration. Then on the other hand we are saying, we're going to single species manage the elk. That's where the notion that we needed to come up with a broader base ordinance that was directed at multiple species, both plant and animal and ecosystem health as opposed to having a wolf ordinance and an elk ordinance and this, that or the other. We have pushed that work along in the ensuing years through our consultants, keeping them in our budget, providing funds so that they can continue to do their work, building up a database and creating the science that we need to be able to bring that forward with some force. As we look at, are we going to revive the elk issue and try to look at simply the elk issue, we need to make sure we aren't damaging our broader credibility on the topic and our efforts to restore ecosystem health.

Commissioner Rardin stated that we are heading that way and I am glad to hear that, but now there is another factor. What if Mescalero brings in 9,000 head of cattle in, are we going to look into that and see if they are going to consider that when they are leasing their land. Commissioner Moore stated that this is not a revival of this issue. He has never let it down. We have been working diligently on this and we have not stopped the motion. Commissioner Moore continues to go to the meetings. We are actually at a place where we have some good conversation about what's the right thing to do. Three

years ago we couldn't get the Game Commission to acknowledge that we had a deal. They had half the cows off the mountain. The man that was in charge for our region, he said I hope we can get 10 to 12 thousand elk up there. He would rather have elk and no cows. This is the guy that is supposed to be bringing balance, of course this didn't work. Many of the ranchers up there have quit raising cows and started raising elk. They have signed an agreement with New Mexico Game & Fish to promote the propagation of elk on their property and on their allotments.

Commissioner Rardin thanked Mr. Posey and Commissioner Moore for continuing to work on this issue. We are going to develop a Land Use Plan, which will include the elk issue.

5. Elected Officials, Department Heads:

a. John Blansett-Discuss and consider purchase of new radio system. This item was tabled.

b. Ray Backstrom- Request approval of the appointment of Bill Lee Parker as the Technical Committee member and Jerry Johnson the Policy Committee member to represent Otero County on the Southeast Regional Planning Organization (SERPO). Each member will serve as alternate for the other. This appointment is done on an annual basis.

Commissioner McGinn made a motion to approve the appointment of Bill Lee Parker as the Technical Committee member and Jerry Johnson the Policy Committee member to represent Otero County on the Southeast Regional Planning Organization. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

Commissioner McGinn made a motion to approve items #7, #8, #9, #10 and #11. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

6. Consent Agenda:

Commissioner McGinn made a motion to approve all items under consent agenda number 12 through 17 and 19 through 29, pulling #18 and #30 for discussion. The motion was seconded by Commissioner Moore.

Commissioner McGinn amended the motion to include pulling item #27 for clarification. The amended motion was seconded by Commissioner Moore.

Commissioner McGinn amended the amended motion to include pulling item #20. The amended motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

a. Request approval of Resolution No. 05-21-09/97-59, setting the County License Tax for County Liquor License for fiscal year 2009/2010.

Commissioner McGinn made a motion to reduce the rate set in this resolution to 0.00 dollars to reduce the cost of operating a business in Otero County. The motion was seconded by Commissioner Rardin.

Commissioner Rardin stated that he has typically supported the \$250.00 cost of a license. With things being so hard financially it would nice to have taxes go backwards. A vote was taken and the motion passed unanimously.

b. Request approval of Resolution No. 05-21-09/97-61, adopting the interim operating budget for fiscal year 2009/2010.

Ms. Brandon, Financial Director, wanted to confirm with the Commission the changes that have been made to the budget. There are four changes that were made since the Work Session. The changes that were made were the amount of the sale of the Hospital property, added revenue to the Recreation Fund, added salary action/pay raise and correction funding for Clerk's Lobbyist.

Janet White asked who was getting the raise and who requested it? Commissioner Moore stated that the raise will be going to Ray Backstrom, the Assistant County Manager. Commissioner Rardin stated that his contract was missed at the last Work Session.

Commissioner Moore made a motion to approve Resolution No. 05-21-09/97-61, adopting the interim operating budget for fiscal year 2009/2010. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

c. Request approval of Resolution No. 05-21-09/97-68; banning burning in Otero County.

Commissioner Rardin stated that he gets a lot of calls when the County starts banning anything. This goes in conjunction with the Forest Service ban. Mr. Quairoli stated that May 14th was the beginning of the Forest Service ban and May 15th was the State Forestry ban. Commissioner Rardin stated that we are going along with the Forest Ban. This has nothing to do with fireworks on the flats. Commissioner Moore stated that we are in stage 2 in the forest. Part of the statute that allows us to have a burn ban is the NOAA Report that calls for an extended forecast of drought or unseasonable dry conditions for the upcoming 90 day cycle.

Commissioner Moore made a motion to approve Resolution No. 05-21-09/97-68, banning burning in Otero County. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

d. Request approval of an agreement between Otero County and Dr. William Boehm, Emergency Medical Director for Medical Director Services.

Dan Bryant stated that in your agenda packet is a draft agreement that we put out to Dr. Boehm. Mr. Bryant has provided the Commission with a copy of Dr. Boehm's requested changes. Mr. Bryant has reviewed the agreement with the changes and his recommendation is to approve it with Dr.

Boehm's recommended changes. We will clean up the original document and get it to the Chairman for his signature.

Commissioner Moore made a motion that we approve the agreement between Otero County and Dr. William Boehm, the amended agreement as inserted today. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

7. Commission Discussion/Action items:

a. Ronny Rardin-

1. Land Use Committee Development-Commissioner Rardin stated that the consensus of this Commission and the public that we develop a Land Use Committee. The committee will need to have a diverse group. Commissioner Rardin would like the blessing of the Board to work with the County Manager to start developing this committee.

Commissioner Moore stated that he agrees with this and instructed staff to start getting some names together to develop a committee.

Dan Bryant stated that he would like to emphasize the most important element to the success of a committee like this is diversity in its membership. We need the agricultural community, the ranching community, recreational users on public lands and land management agencies themselves. As much as that diversity that we can create, we will develop a better document.

Commissioner Moore requested that we take the old Land Use and let that be the core for the new one and strike stuff that is outdated or irrelevant and modify the existing language. That way we will have something to start off with.

2. SB 647-Renewable Energy Financing District- Commissioner Rardin asked, "What do we have to do as a Board to get this thing going"? Commissioner McGinn stated that she read that we have

to hold public hearings and then have a resolution. Mr. Bryant stated that the main question that he has on this topic is, "Do you want to do these public hearings as part of a Commission Meeting or do you want them as separate stand alone meetings"? Commissioner Rardin would like to have the public hearings part of a Commission Meeting. Commissioner McGinn stated that at the next regular Commission Meeting, permission to publish a public hearing on this particular topic and then schedule for the next Commission Meeting. It's a levy on your property tax if you choose to place your private property within this financial district to invest in solar or whatever it may be. What happens if the property owner changes in that 20 year pay off period on your property taxes? Is the County going to be held liable? Dan Bryant stated that once a property owner makes that election, that levy will attach to and run with the land. Whether there is one or three owners, it will stay with the piece of property, not with the individual. Before a property owner signs up, he would sit down and look at an amortization schedule. If they do this, it will be this much money over this period of time, they will have a clear picture going in of what the repayment schedule is.

Commissioner Moore stated that this is a good mechanism, but if he is reading this correctly we will have to seat a Board of Directors. Under Section 7, the District Board could impose a special assessment tax in the geographic area for a project and or betterment of that chosen district. We need to be selective. We will appoint and seat the Board. Dan Bryant stated that when we get into the public hearing process, he will go through and tell you what portions of the statute are mandatory and non-discretionary to you and which ones we have discretion in.

3. Request from Otero County Farm & Livestock Bureau-Commissioner Rardin stated that John Connors, who is the president of the Farm & Livestock Bureau has asked the Commission if we would consider a petition to the Department of Fish & Game to legally authorize private rule land

owners in Otero County. The right to eliminate Mountain Lions as the need arises due to the destructive nature towards domestic livestock and other cases. There is an avenue for this and if you are a landowner you have to watch a video that teaches you not to kill the female lions. Commissioner Rardin would like to invite Fish & Game to come down here and meet with the Farm & Livestock. They could show us all the video and bring us up to date.

Dan Bryant stated that they had a problem over time with too many of the animals being killed were females and many were pregnant. This gives rise to concerns about the extinction of the species. They adjusted the regulation to permit the taking of males. Then you are supposed to go through training where they teach you how to recognize the difference between the males and females.

RL Posey believes that what Mr. Bryant is talking about only applies to hunting seasons.

Commissioner Rardin stated that he believes that it would be a nice thing to have Fish & Game come and speak to us on this subject.

b. Commissioner Moore stated that we had a very fruitful meeting last week in Chaparral, New Mexico. We had some good ideas from that community and we plan to have some Commission meetings around the districts this summer.

c. Commissioner McGinn stated that we have a flood project under way starting Tuesday, on Riata Road to install the culvert for flood prevention. It has been many years in the making.

Commissioner McGinn also made a motion to have our June 10th Work Session in Mayhill at 6:00 p.m. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

8. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss items listed on the

agenda under A. Collective Bargaining, B. Pending Threatening Litigation, C. Personnel, D. Land, E. Roads, F. Detention Center and G. Contracts. The motion was seconded by Commissioner McGinn.

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 items listed on the agenda under A. through G. and 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 10:20 p.m.

APPROVED:

Ronny Rardin, Chairman

ATTEST:

Robyn Holmes, County Clerk

Regular Meeting May 21, 2009