

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 Administration Building in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 9:00 a.m., April 25, 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-Chairman |
| Clarissa McGinn | Member |
| Timothy 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 Moore led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

1. Scheduled Citizen Communications:

a. Everett Puttney, Timberon Development Council discussed several issues concerning Timberon. Mr. Puttney thanked the Board for the 1 mile of finished paved road in Timberon. These paved roads are very important to the safety of the residents in Timberon. We have had 2 traffic fatalities within the past couple of months. These people were on ATV's and flew off the road and hit a

tree. We are hoping the County can keep us on a schedule to finish paving the roads in Timberon.

Mr. Puttney gave the Commission a report on the airport. There have also been 2 new hangars put up.

Mr. Puttney stated that we have been having a problem with keeping people off the right of way along

the airport. Mr. Puttney is asking the Commission for their support, he doesn't know what to do. At

the north end of the airport, people are making a road parallel to the runway. This is not a designated

road by any means but it is being used as a road. Mr. Puttney would like a private property sign put up

and he is asking the Commission for their help. Commissioner Rardin asked if ATV's are using this

road or just cars. Mr. Puttney stated that both are using this illegal road. Commissioner Moore asked if

there was another road that could be used. Mr. Puttney stated there is a road that goes in front of the

fire station which is the main paved road at that end.

The other issue Mr. Puttney would like to bring to the Commission is concerning 23 acres of property at

the south end of the airport for future development. He believes this would be a good investment for the

County. Commissioner Moore stated that for him to have a better understanding of the area he would

like staff to get him an aerial map of the area. When this item comes up on Thursday night he would

like to have some idea of where the property is and also the roads that need to be finished.

Commissioner Moore asked Bennie Carrillo from the Road Department, what we have scheduled for

Timberon next year. Mr. Carrillo stated that we don't have them on the list for next year, we are just

doing County arteries. Commissioner Moore requested to know how much of Timberon's major

arteries that are County roads, how much are still dirt. Mr. Carrillo stated that he will have the

information for Commissioner Moore for the Thursday night meeting. Mr. Puttney stated about 10

miles is still dirt. Commissioner Moore would like to have an aerial map for Thursday night.

Commissioner Rardin asked Mr. Puttney, "why would we want to buy 23 acres and how would this

benefit the County?" Mr. Puttney stated that if the County is interested in this airport, then they need some place to expand. Mr. Puttney has gotten a feeling that the County is not wanting to do much in the way of development of the airstrip. Commissioner Rardin stated that the interest is there, but Timberon residents need to be more involved. If Timberon makes the effort to get what they can, the County will help where they can. Ray Backstrom, Assistant County Manager, stated that the County currently has a grant for purchase of property. There is \$125,000.00 left on the grant. Some can be used for the runway, but it was intended for purchase of property. This is the information that Commissioner Rardin needs to hear about because those are the kinds of things that he is interested in.

The Commission thanked Mr. Puttney for his report on Timberon.

b. Otero County Community Health Council-Lee Ann Looney approached the Board for the annual approval of the Community Health Council membership. Ms. Looney stated that we have amended our by-laws to change the limit of membership. We now have no upper limit for membership and accept anyone who wants to be a part.

2. Elected Officials, Department Heads:

a. Request approval to schedule and advertise a public hearing for September 17, 2009 to amend the Otero County Personnel Policy 07-01.

Commissioner Rardin would like to pull this item from the agenda. He hasn't seen a draft of the proposed changes and would only have a few days to study the proposed changes before the public hearing. Commissioner McGinn stated that we just revised the ordinance and requested to know what we are proposing to change. Mr. Smith stated that some format changes need to be made, issues of how it was set up, it doesn't flow together and Commissioner Rardin has a recommendation of the gun issue.

b. Roberta Hanneman-Presentation of Safety Awards to Otero County Detention Center A-D

shifts, Pinon Road Shop, Sheriff's Office and their Administration/Detectives/Dispatch.

Ms. Hanneman presented the Safety Awards to these offices for their great job.

3. Consent Agenda:

a. Request approval for the renewal of the Legal Services contract between Otero County and the firm of Daniel A. Bryant in the amount of \$12,633/month plus all applicable taxes. This is the third year of a four year contract.

Commissioner McGinn stated that 3 years ago we went out to bid for Legal Services. The \$12,633 a month, is that inclusive of what we are doing now or is that something new. Mr. Bryant stated this is a typographical error, because that is not what we are doing now. He had his staff put together a comprehensive report that will give the Commission all the data about every ones individual time, monthly and total for the fourteen months. This report will be ready today or tomorrow so the Board can study it carefully between now and Thursday, to decide what you want to do and how you want to do it. Commissioner McGinn stated that last time we went out to bid we just extended the contract. Mr. Bryant stated that no, we did a full blown RFP process. Commissioner Rardin stated that he spoke to Ginger Herndon, Purchasing Agent, that the amount of \$12,633 we are operating under is correct. Commissioner McGinn stated that we had changed it from a flat fee to a by the use fee. Mr. Bryant will have the June contract emailed to Commissioner Rardin with the specific fees. Commissioner McGinn would like to go out to bid for the legal contract. Commissioner Moore stated that he has seen this come up twice. The first time we had 3 or 4 apply which didn't meet the qualifications of the standards that we set. The last time we had one other applicant who couldn't meet the benchmark that we had set on the experience.

Commissioner Rardin stated that if the business gets the 4 year contract, then we shouldn't go out to bid

until the 4th year. Mr. Bryant has taken a lot of slack from the Commission in trying to reduce his cost. If we were having a problem then Commissioner Rardin could see going out to bid. Commissioner McGinn stated that this is not personal, but being a business person we should give others a chance. Commissioner Moore stated that on his part he is pleased with the service we are receiving from Mr. Bryant. In the future we need to be a little more conscientious about when the contract renews to do it in a timely matter. Mr. Bryant's firm has been doing County government for 31 years and his firm stands above any of the competition. Commissioner Moore is proud to have him working for us and is not interested in putting his contract out to re-bid.

4. Commission Discussions/Action Items:

a. Commissioner Rardin discussed the Otero County Hiring Practices. Why was the ordinance changed to take the Commission or his designee out of the interview board as an observer? Apparently this was stricken in 2007 by then County Manager, Martin Moore. The Commission is totally out of the process and it's handled by the County Manager and Human Resource Department. Was this the intent of the Commission? Commissioner Moore stated that he didn't have the expertise to make a judgment call one way or the other. To be in there as an observer to make sure that the hiring practices were met, he felt the management staff was confident enough to make sure the process was complied with. Commissioner Rardin will speak about some personnel issues in Executive Session. If Commissioner Rardin has the authority, he would like to look at the jobs that are being filled and sit in on the interviews. Commissioner Rardin would like to know who is being hired and how much. He wants to know before it happens.

b. Commissioner Rardin stated that Weed School is looking for some grants to help with the building. There are some minor repairs that could be done to preserve the building. Commissioner

Moore stated that the repairs that had been done on the building were from a legislative grant.

Commissioner Moore stated that we should get in touch with Hubert, since this is a community center and see if we can get some CDBG money. This is a perfect opportunity for them to apply.

c. Commissioner Moore stated that we had directed staff to go out through New Mexico Department of Transportation for an arterial grant that was available. The only road that met the criteria was Florida into La Luz. Some of the money is stimulus money so it had some Federal requirements. The application was made and we were successful in getting it, but we have never turned in the application and the deadline is Friday. Is this something we don't want to do or if it is something we want to do, we need to take action on it today.

Commissioner McGinn stated that what we did was direct staff to look at the requirements in accepting the reinvestment act stimulus money for that particular road project. There was a meeting with the state in which they supplied a contract and a whole book of requirements. If you want to pursue the money that the County asked for, then you vote on the contract that would bind you to that reinvestment act regulation and all the different things that we would have to do to receive the stimulus money. What we did during the budget process is we took between four and five hundred thousand, that would be the balance of the entire road project estimate to complete from Highway 54 all the way to Highway 82. Looking at these requirements, the County can improve that road using the money that we budgeted for in our general fund road budget much more economically and efficiently. It's a re-paving project, not a new road. Commissioner McGinn's recommendation is to fund it the way we appropriated it in the County's budget.

County Manager, Tim Smith, stated that there is a lot of paper work to be completed and he is willing to do it if the Commission decides to go after the stimulus money. Once we have all the paperwork up

to the department and they are satisfied with it, then they come back and certify us for the project. Once that is done, there is an actual resolution that has to be voted on in public, saying that you will go forward with the project. At that point, there are some time frames that have to be met to get the project bid and complete it.

Dan Bryant stated that if we are doing a \$500,000.00 road improvement refurbishing project, state law requires us to have an engineer. We will have engineering cost whether we do this on our own or with the stimulus money. All public work projects, whether they are funded by the federal government or by the state government or by local government, are required to pay Davis Bacon wage rates. Mr. Bryant has done a lot of work on ARRA at the Village of Ruidoso because we have 8.7 million dollars of those funds coming into our Waste Water Treatment Plant. The biggest wrinkle that is created by ARRA is, there is a requirement that you have to use equipment and materials that are American made materials. Contractor's who sign on with the governmental entity to do an ARRA funded program, have a set of document that they have to jump through. For example, if this is going to be a paving project the contractor that provides the oil and the paving is going to have to demonstrate that those materials are American materials. He will have to certify to the Feds satisfaction he's not bringing material across the border from Mexico to make the asphalt out of. In addition to that, he will have to demonstrate where he got his equipment from. The stuff he uses to do the job. That equipment has to be American made. Commissioner Rardin asked if we do the paving on our own do we have to go through all those certifications. Mr. Bryant stated that the American made requirement in the ARRA doesn't apply to your other general fund dollars. Commissioner Moore stated that the contractor that is successful low bid, has to provide that to us. We as a County, don't have to do anything. Mr. Bryant stated that we gather the information up and the ARRA provides the check list and we submit that to the Feds and

that's part of what they review before they decide yes you are going to get the money. You are not obligated until way down the line after they have done the review, they have certified the American made requirements on all the equipment and then when the money is coming to us that's when we would have to sign on the dotted line.

5. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss items listed on the agenda, A. Collective Bargaining, B. Pending Threatening Litigation, 1. PSAP, 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 Moore	yes
Commissioner McGinn	yes
Commissioner Rardin	yes

Commissioner McGinn made a motion to come out of Executive Session. The motion was seconded by Commissioner Moore and no decisions were made. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Rardin	yes

Commissioner Moore made a motion to instruct staff to pursue enacting a JPA with Tularosa for their PSAP and dispatch, as well as instruct our legal staff to file a complaint with District Court to compel DFA (Department of Finance) to fund our currently consolidated PSAP endeavors. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

Commissioner Moore made a motion to instruct staff to include the COLA allotment to the

Assistant Manager that was overlooked by us at the budget cycle to be in compliance with his contract. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

Commissioner McGinn made a motion that we pursue the letter of interest of the property of interest. 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 1:45 p.m.

APPROVED:

Ronny Rardin, Chairman

ATTEST:

Robyn Holmes, County Clerk

Work Session
August 12, 2009