

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., October 15, 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                 |
| Ray Backstrom   | Interim County Manager |
| Dan Bryant      | County Attorney        |
| 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 Communication:**

a. Tammy Bean & Mark Lautman-Discuss a proposal for funding for information gathering to explore and determine the feasibility of "3" Bedroom".

Commissioner Rardin stated that he didn't ask Mr. Lautman to attend tonight because they gave a lengthy presentation on our Economic Development proposal at the Work Session. Ms. Bean and Mr.

Lautman are requesting \$4,000.00 along with Lincoln County for the information gathering.

Commissioner Rardin made a motion to have a contract drawn up by our County Attorney that would match with Lincoln County to hire Community Economic Lab for the \$4,000.00, only if Lincoln County puts their \$4,000.00 forward and we work with Lincoln County. The motion was seconded by Commissioner Moore.

Commissioner Moore stated that this is an exciting idea. It's a new idea and a new way and he considers this seed money. Based on the presentation given that there will be reports along the way to tell us the effectiveness of the pilot project. Commissioner Moore looks forward to those reports.

Commissioner McGinn stated that it's wonderful that they are looking at different economic development opportunities. From her personal view point, government needs to stay out of that part. If it's going to succeed it will succeed on it's own without government funding, so her vote tonight will be no. A vote was taken and the motion passed 2-1 with Commissioner McGinn voting no.

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

a. Mark Turnbow, Lee Wilson and Dan Weeks approached the Board to discuss the project of High Desert Landfill that's proposed for construction, approximately 1 mile west of the Otero County Prison Facility. Mr. Turnbow stated that we are here to start a discussion with the Board about an easement on County property that runs immediately north of the prison facility over to state owned land and then to their own land where the High Desert facility will be located. This is a little bit of a snug fit. On the north side of the prison property there isn't a whole lot of room in between the fence and the lights and the federal property to the north. Mr. Turnbow stated that we propose to improve the easement at our expense and re-locate the 3 light poles that illuminate the security fence. Mr. Turnbow is requesting

that the Board consult with the prison officials and make sure what we are asking for in regard to the lights is something that they can go along with. Outside of the light poles, that right-of-way is clear. If we could start the discussion with the Commission and get Mr. Bryant to make sure that what we are asking for is something we are able to do with regard to the relationship with the prison.

Commissioner Moore stated that these folks that we are dealing with this evening initially had a permit to develop a solid waste landfill along highway 54. There were some local citizens in Chaparral that opposed this landfill. The State Supreme Court got involved, invoked an injunction and we enjoined CDC because we wanted those folks voice heard. High Desert is a whole different company. They bought the existing permit and the land from a defunk company and wanted to move forward. As we began discussions with them initially as litigates, as opponents to the project, they were willing to listen to us and the main concern was, we didn't want the facility upfront and center where you could see it from highway 54 or the wind to carry any odor or debris into the community of Chaparral. Those folks had a big concern because they are surrounded by some other facilities. At the end of the day, even though they are lawyers, they listened to us when we offered them some state land that is over a little hill that can't be seen from the community. It's down wind so you don't have any of those issues, would they entertain this idea. The company backed off the project that they had several hundred thousand tied up in. They were willing to commit because they didn't want resistance from the community, so they invested several hundred thousand dollars to look at the proposed new location. There are still some objections from the community of Chaparral, this was over the hill, downwind, out of sight and these folks have done everything that we have asked of them.

We have to deal with the solid waste issue and this is another step in the right thing to do, that we have been working on for about 10 years at their expense. Commissioner Moore directed staff to talk to MTC and our operators at the prison and find out if there are some legal issues in relocating the lights. Get Bill Parker and our staff involved in what it would take to enhance that easement so that they can have a safe way to travel to the proposed sight.

Dan Bryant, County Attorney, asked if there was enough information in the packet from Mr. Turnbow if he gives it to Warden Frawner. Will it give him enough information about what the request is about the lights or do we need to do more? Mr. Turnbow stated that we owe you a description of what we would like to see happen. All that is in the packet is the information for the proposed easement that we are asking the Commission to consider.

Commissioner Moore asked staff to bring the information back to him in a timely manner, bring it back to our agenda in January. Mr. Turnbow will communicate with our attorney, our Public Works Director and our manager to provide them with any information they need.

b. Janet White approached the Board and read a letter she had written concerning Premier Pellets in Tularosa. Representatives from Premier Pellets attended a recent Commission Meeting asking for a County tax abatement, spread out over a ten year period amounting over \$60,000.00.

Commissioner Rardin stated that Dan Bryant couldn't answer Ms. White's questions in a meeting. The Commission would find out the answers to her questions and get back with her.

### **3. Consent Agenda:**

a. Commissioner McGinn made a motion to approve Consent Agenda items 4, 5, 6, 8, 9, 10, 11, 12, 13 and pull items 2, 3, and 14 for discussion. The motion was seconded by Commissioner Moore.

A vote was taken and the motion passed unanimously.

b. Request approval to reappoint Larry C. Drake to the Alamogordo-Otero County Airport Zoning Board as the County Representative.

Commissioner Moore made a motion to approve the reappointment of Larry C. Drake to the Alamogordo-Otero County Airport Zoning Board as the County Representative. Commissioner McGinn stated that she needed to recuse herself from this item, Mr. Drake is a relative. The motion was seconded by Commissioner Rardin. A vote was taken and the motion passed 2-0 with Commissioner McGinn abstaining.

c. Discuss a request from the Timberon Development Council in regards to a right-of-way on the airport.

Commissioner Moore made a motion that we approve the request for Timberon Development Council to post signs in regards of a right-a-way at the airport for discussion purposes. The motion was seconded by Commissioner McGinn.

Ray Backstrom, Interim County Manager, stated there is an area right adjacent to the runway that is inside the runway limits and people have been driving up and down this area for quite some time. Mr. Putney asked if the County could put up a sign asking to keep motor vehicles off the right-of-way. The insurance for the facility is under the County's umbrella and should something happen, we will be liable for it.

Commissioner Moore stated that his understanding of the issue is, there are other County roads that facilitate access to property to the south. However when you drive up there, the shortcut is to just drive down the runway because very few planes land there. The community is traveling the runway at will, as

if it were a county road, which it is not. It is an easement and its purpose is for landing and approaching aircraft. There are other routes available, this is certainly a shortcut. We will put some signs up, saying not to take the shortcut.

Commissioner McGinn asked what is the action being requested on item #3? Commissioner Rardin stated that we give them permission to put up the signs. Commissioner Moore stated that he made the motion that we consider allowing Timberon Community Council to put up a sign regarding right-of-way on that area. A vote was taken and the motion passed unanimously.

Dan Bryant stated that his concern is when you turn to page 7 in the agenda book there are 3 or 4 requests on the agenda memo. Mr. Bryant wanted to make sure in the minutes that the only thing being approved is granting permission for them to erect signs restricting vehicular traffic on the runway. The balance of the request was not acted on by the Commission tonight.

d. Consider approval of an agreement between Otero County and NM Clerks, LLC to provide technical assistance services to the County Clerk in the area of Recording and Filing, Bureau of Elections and other items as listed. This is a four year contract in the amount of \$8,000 plus all applicable taxes.

Commissioner Moore made a motion that we consider approval of the agreement between Otero County and the New Mexico Clerks, LLC to provide technical services in the Recording and Filing, Bureau of Elections and other items as listed. The motion was seconded by Commissioner McGinn.

Commissioner McGinn stated that the last time we discussed this was at budget time. We discussed fund 17, which is the Equipment Fee Fund for the Clerk. Commissioner McGinn had some questions, but will wait until she hears the changes that have been made to the contract.

Daniel Ivey-Soto, Executive of NM Clerks, LLC introduced himself to the Board and proceeded to take the Commission through the agreement. Within the Scope of Work, there were some changes made and incorporated at the suggestion of the County Attorney, Dan Bryant. There was also a concern that the County Attorney had to ensure that there would be some collaboration with the County Attorney. This issue was addressed on page 2 line 61. The term of the contract was a four year contract. In discussion with our Purchasing Agent, Ginger Herndon, her comfort level at this time until she gets greater direction from the General Services Department, is to make this a one year contract. After the one year Ms. Herndon will speak with General Services and either go out to bid or if General Services says that as a small purchase we can simply renew it. It would be renewed at the recommendation of the County Clerk and brought back before the Commission. There was a concern with the compensation in terms of the increase. It was originally written to increase 5% every year. We changed that to say it will increase by no more than 5 % every year based on the contractor and the Clerk. The contract now also has a 30 day termination without cause clause as well as a 30 day with cause at the discretion of the Clerk.

Mr. Ivey-Soto stated that this is not a contract for legal services or lobby services. He wanted to be very clear about both of these.

Commissioner Moore stated that we did discuss this as a budget issue. With Commissioner Moore's involvement with New Mexico Association of Counties there were concerns about this relationship developed between the Clerk's Affiliate and Daniel Ivey-Soto. Commissioner Moore brought some of those concerns through the budget cycle. He had additional concerns in that it's vaguely written so that it will work for all 33 counties. Commissioner Moore and Ms. Holmes

discussed the contract in length. The Clerk stated she is trying to develop with this contract is better rapport with the Legislature, better communication and continuity amongst all the Clerks.

Commissioner Moore stated that the concerns that he had with the contract have been answered adequately and he is in support of the contract.

Commissioner McGinn stated that Mr. Ivey-Soto said he would not act as an attorney or a lobbyist. Can you give us an example of what kind of service you will be performing for the Clerk's Office in Otero County. Mr. Ivey-Soto stated that a general service that he is doing now for the Clerk's is that the Department of Motor Vehicles just came out with a new regulation in terms of implementing Motor Voter. This requires them to offer people the opportunity to register to vote or update their registration status. They got part of it right, but not all of it. When someone comes in for a new license, they are printing their voter registration for them. If someone comes in with a change of address, they will print a change of address form that they invented that did not exist before. This form will end up in the Clerk's Office and there is nothing by law that they can do with this form except send the person a blank voter registration form. Mr. Ivey-Soto is in discussion with the Motor Vehicle analyst who wrote this, to better understand the whole article for them to have a policy that will work for all the Clerk's throughout the state.

Commissioner McGinn asked if the original motion included 4 years or 1 year for the length of the contract? Commissioner Moore stated that his motion was to approve the contract.

Commissioner Moore amended his motion to approve the amended contract with a one year renewal.

The amended motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

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

**a. Commissioner Rardin discussed the Convenience Center hours.**

Commissioner Rardin stated that he is receiving phone calls about the Convenience Center being closed on Thursdays. Commissioner Rardin would like Bill Parker to look at keeping the Center open 6 days a week to give the public Monday through Saturday service. Mr. Parker stated that he has been looking into keeping the center open 6 days a week. Right now Thursdays are used for working on the equipment and anything that the guys have gotten behind on. Bill Parker stated that if we decide to open on Thursdays, he would like to start closing at 2:30 instead of 4:30 to give the personnel time to work on their equipment and anything else that needed to be caught up on.

Commissioner McGinn stated that as of September 27<sup>th</sup> the County resumed operations of the Convenience Center and she would like to take a look at all the operations to see what we can improve. We need to give it a little time and have Bill Parker come back to us with the cost of staying open that extra day.

Commissioner Moore mirrors Commissioner McGinn's thought process. We just took it over and it's a new venture. We need to get it up and running and let Bill Parker evaluate the operations. Commissioner Moore would like to give Mr. Parker 6 months running on the current operational schedule and have him come back to us with recommendations. Commissioner Moore asked Mr. Parker if there is a way to go to a seven day a week operation without it costing us a ton of money. Commissioner McGinn believes it's a good idea for Mr. Parker to come to our next meeting and give us an update on things that he is finding at the Convenience Center. Commissioner McGinn is not interested in pursuing Mr. Buyers contract or any contract for consulting. Right now Mr. Parker can

provide us with that information. Mr. Parker stated that he is learning and seeing more everyday. He will come back to the Commission with a report at the next meeting.

b. Commissioner McGinn asked Bill Parker for an update on Fresno Canyon. The County has completed the chip seal from High Rolls all the way down to Labrocita Canyon. Mr. Parker stated that the guard rail will be put in place in a couple of weeks and this will complete the project.

**5. Executive Session:**

a. Commissioner Moore made a motion to go into Executive Session to discuss items A. Collective Bargaining, B. Pending Threatening Litigation, C. Personnel, D. Land, E. Roads, F. Detention Center, G. Contracts, (1.) Professional Service Agreements. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Rardin	yes

Commissioner Moore made a motion to come out of Executive Session having discussed items on the agenda A. thru G., having made no decisions. 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 under item #7 to approve the renewal of Legal Services Contract with management oversight discussed to evaluate and implement cost control measures for use

of legal services. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

Commissioner Moore made a motion to direct staff to move forward on items as listed in Executive Session under B1 (a) and (b). The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously.

There being no further business before the Board, the Chairman adjourned the meeting at 9:50 p.m.

APPROVED:

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Ronny Rardin, Chairman

ATTEST:

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Robyn Holmes, County Clerk

Regular Meeting  
October 15, 2009