

The Board of County Commissioners, in and for the County of Otero, State of New Mexico, met in a Work Session at the Administration Building in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 9:00 a.m., November 12, 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 |
| Ray Backstrom | Interim County Manager |
| Pamela Heltner | Commission Liaison |
| Christina Nuno | 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. Dr. Garrett approached the Board to discuss the Forest/Mescalero Apache Tribe Collaborative Stewardship Project for the Lincoln National Forest. Mr. Garrett would like to talk about the draft proposal for the Lincoln National Forest, Mescalero Apache Tribe stewardship contract, the sustainable wood energy and wood products industry opportunities on the forest and some recommendations to the Commission for 2010.

Commissioner Moore stated that Dr. Garrett has helped us for many years, to have a better

working relationship with the Forest Service. He is retired after many years with that agency. Dr. Garrett helped us develop, several years ago the concept of pre-settlement tree inventory in the forest. What did it look like in the 1900's when people first came to this area? One of the goals, when we looked at forest health, was to try to get back to some of those type forests that were healthier and properly managed. At the latest meeting that we had with the Forest Service to develop their newest projects, after 10 years they have finally embraced this thought. They have used this in developing their strategy for some upcoming projects that they have in our forest.

Dr. Garrett stated the draft before the Commission is an Otero County Commission recommendation to the Lincoln National Forest and the Mescalero Tribe for a major stewardship contract. Otero County has been one of the strongest leaders in the West in forest restoration. This document that Dr. Garrett is talking about right now involves three different proposals that were developed with the Commission's leadership. The Commission has been involved strongly, not only here in New Mexico but also in Washington. Commissioner Moore asked Dr. Garrett to explain the stewardship contract. Dr. Garrett explained that with forest restoration direction in the United States, we could not get long term commitments for wood supply from National Forests. We worked on the healthy forest restoration act. A critical component of the forest restoration act is the development of long term stewardship contracts. The forest can make a commitment for 10 years or more to continue a restoration programmatic direction. Commissioner Moore stated that some of the challenges we have had with this, is each President serves a 4 year term. Whether it's on a regional level or district level, resistance to make commitments that might span beyond new leadership at the federal level. For the industries that we were looking at, it was going to be a 10 to 15 year run. They were going to have to have an assured resource, in some cases 10 years to be able to afford to go up front, buy the

infrastructure that they needed to begin the work of restoration in the forest. In a 4 year window we have watched 10 projects come through here that we couldn't embrace. They were great ideas, but 4 years was too short of time for them to recoup the initial cost. The stewardship program that has been embraced by the federal government is now what gives us the ability to look at investment in the pellet plant, bio generator and those kinds of things that will be a longer term application in our forest.

Dr. Garrett stated that with this particular steward contract, the Commission has wanted to make sure that the recommendation to the forest involved Mescalero Apache Tribe in partnership and all the stakeholders. It conducted pre-settlement restoration and pursued those desired feature conditions that were specified. The contract itself and the proposal, the Forest Service is aware of all the elements of it. The contract with Mescalero Apache Tribe will be the primary contractors on the Sacramento River Management Unit. The worst possible degradation in the forest system is considered wild fire. The current forest conditions promote the highest risk of that wild fire and something has to be done. What we are looking to get out of this contract is increased management knowledge and how best to approach pre-settlement restoration. We aren't doing it the way we should be. Another outcome is improved design. Dr. Garrett stated that these restoration contracts should be a continued push by the Counties for the next 10 years. If you are an industry, you can not invest unless you have a 10 year window to recoup your investment. Without a continuous supply guaranteed for 10 years, you can't get restoration industry. The objective is to restore the forest, to use energy and wood product industry to help with restoration. This is about restoring your water and restoring your landscape resources. Mitigating the high impacts of these increasing fire risks to our society and the expense, it's huge. Commissioner Rardin stated that it also creates true economic development without raising taxes and brings a revenue of a resource we sell off of it into New Mexico. Dr. Garrett stated that you can use industry to actually

mitigate totally the cost that you are incurring out of your tax dollars. Dr. Garrett is pleased that on this forest the Commission did it the way it should be done. You went and got the science and developed the information so you know what you are talking about and you know what can be accomplished.

Dr. Garrett stated that the way he works with the County might be improved as far as his efficiency and effectiveness with agency if he was more directly linked in a position, maybe a liaison rather than a free lance consultant. It is clear to Dr. Garrett that the one group of individuals in the Western United States, who will tackle the problems and work as a partner with the U.S. Forest Service, is County government. They have the interest and they have the safety, welfare and health of the people as their guard. To stay involved, Dr. Garrett recommends a change in the way he works with the Commission. He would like to be able to work directly with the Chairman. Dr. Garrett believes there are some real opportunities to establish several Stewardship Contracts. That should be the goal of the County, to push restoration of this forest to the longer term.

Commissioner Rardin thanked Dr. Garrett for continuing and that the Commission had the foresight to keep Dr. Garrett on. Commissioner Moore stated that for years because it was a different way, the 95 MSO Recovery Plan said the paramount threat to the Mexican Spotted Owl was clear cutting. Part of our challenge is, stepping into the future, that is the guidance Dr. Garrett is helping us with. We used to have sawmills around here, but they have all closed because of economics. The production board doesn't have the same value as it used to. It became uneconomic for them to produce lumber. That is hard to believe, but that has been the vein of the West and the forest in the West. For decades there have been timber men and the way they made their living was they went to the forest and they cut down trees. There were sawmills and the whole gambit of how that was connected. Then we became challenged in the late 80's with "we can no longer do things the way we used to because of the Mexican

Spotted Owl, and other concerns.” Commissioner Moore stated that he is excited about the work that Dr. Garrett has done to help us get to this point.

b. Discuss a boundary issue involving land owned by Otero County on the La Luz Plaza and Lorena Dabney.

Commissioner Moore stated that he had asked Klad Zimmerle, from Alamotero Land Surveying to provide him with some graphics and mapping on the issue in La Luz. The ladies are not here today to address the issue. Commissioner McGinn asked if there was a dispute brought to Mr. Zimmerle. Mr. Zimmerle stated that yes there was. One of the owners on the Plaza, Mr. Simmons, was having a dispute with his neighbor, Mary Garcia, because she was not allowing him access to the public land in front of his house. She was parking vehicles there, putting pit bulls there and he could not come and access the front of his building. Commissioner McGinn asked if the survey resulted in drawing the boundary lines that show which is private and which is public. Mr. Zimmerle stated that yes it did. Commissioner McGinn asked if the two individuals that are coming to discuss this dispute with us, will it be a civil matter. Mr. Zimmerle stated that it is a civil matter, but the County has to take the stand on the size of the Plaza. The question is does the Commission want to back off of where the legal boundary is. Commissioner Rardin stated that this dispute will be discussed in Executive Session.

c. Jeremy McMahan-Discuss a request to allow the Timberon community the right to ride their registered and licensed ATV's on all roads inside private property of Timberon without penalty. Also, discuss a request for a designated ATV trail, approximately 5 miles along side the paved highway leading from Scott Able Canyon to Timberon.

Jeremy McMahan stated that New Mexico is very behind on things in our rural communities. In Timberon, Weed, Sacramento, Pinon and Cloudcroft there is a wonderful trail system out there for

ATV's. Mr. McMahon runs a ATV rental business in Timberon and stated that we are locked out of the forest. We have to trailer in and trailer out. Mr. McMahon is asking for a trail to be put on the County easement road that goes from Timberon to Scott Able Canyon. It's a five mile stretch of road and it's pretty much already done. There is 3 turns that need a little bit of work and some signs designating it as an ATV trail. Mr. McMahon stated that he runs a big ATV event and is probably the biggest in the state. We bring in riders from all over the United States and have an average of about 150 riders a year. Last year Game and Fish set up a road block on the actual course and ticketed about 20 riders for non-registration. Commissioner McGinn asked, "Doesn't state law say you have to have the ATV 's registered?" Mr. McMahon stated that is correct.

Commissioner Moore stated that he has had some comments from other folks in Timberon concerned about ATV use. He had asked staff to get with the Sheriff, because he had heard that there had been some fatalities in Timberon. The Sheriff reported that there hasn't been any fatalities with an ATV in many years. State Legislators have come out with a whole new set of rules. They have empowered New Mexico Game and Fish as the authority to impose these new laws. Peace Officers are also authorized to impose the new laws and regulations. If Mr. McMahon wanted to hold a special event, he could ask for special permission to have a rally or poker run. The County doesn't have the authority here to allow ATV's to ride on blacktop. Commissioner Rardin stated that he had asked Jeremy McMahon to be here today because he believes the County does have the authority to set trails and easements off the right-of-ways.

Dan Bryant, County Attorney, stated that we are the local governing body. This is our jurisdiction, this is our town. We have the prerogative to set up a system of off road vehicle trails and to do the kinds of things that are being talked about. To do that appropriately, we probably should have

some kind of a travel plan for off road use developed. There are abundant samples around the west for how communities are doing that. Our neighbor Ruidoso, is eyebrow deep in a bike hike off road vehicle of trail system development right now. We could bring their Parks and Recreation Director down and have her make a presentation about how they are going about the process. The first thing they did was go to CDBG and got a \$25,000.00 Planning Grant and are in the process of going out to get a Planner to go to work. On the other side of the issue, Commissioner Moore is exactly right. The off road vehicles statutes in New Mexico are at 66-3-1001 thru 1016. In section 1012, specifically defines how off road vehicles can cross state highways, county roads and city streets. It talks about the ability of off road vehicles to run parallel to these roads as long as they stay off of the paved surface. Mr. Bryant would recommend that somebody from the community of Timberon apply for a CDBG Grant for planning money. Commissioner McGinn stated that she thinks this is appropriate, but at the same time currently they have the ability to do exactly what they have been doing. Going with a CDBG plan isn't going to educate everybody on what the law currently says.

Commissioner Moore stated that within the statute of 66-3-1017, it talks about the development of an Advisory Board and the membership that would be on the board. Visit within your community about where would the residents like to see more well defined paths.

Commissioner Rardin stated he will work with Jeremy to get this started and bring it back before the Board for approval.

B.F. Adams, stated no one is asking to ride in Timberon, but outside and they are willing to follow the law.

Commissioner Moore stated that he is not opposed to this, but the mechanism given by the statute, you want to have variance from what is written, you form the committee, the committee comes

comes up with a recommendation that they take to government, which is the Commission. Then the County acts.

David Kirby, asked if the committee that will be formed have to have bylaws. Commissioner Rardin stated that no, they wouldn't need to have bylaws. This is a planning committee that brings recommendations to the governing body.

2. Unscheduled Citizen Communications:

a. Jan Perry, 12th Judicial District Court, approached the Board to discuss tile over carpet. Ms. Perry stated that the reason why they would prefer carpet over tile is the noise level. Commissioner Moore stated that public buildings should be functional and we owe it to the taxpayer to be as frugal with their money as we can be. Carpet is expensive and a constant maintenance problem. The vinyl can be mopped and buffed to a nice shine and it's much more functional, has a longer life span and it's acceptable on the commercial level. If Ms. Perry has some particular concerns for certain areas, Commissioner Moore will come over and look at them with Ms. Perry. Perhaps using runners or small carpets would cut down on the noise level and they could be taken up and cleaned if they were stained. Ms. Perry stated the safety issue with the tile that two staff members have almost fallen because the tile is so slick. Commissioner Moore stated that he understands Ms. Perry's concerns and will come over and take a look.

b. Donna Owens, a District Ranger from the Sacramento Ranger District on the Lincoln National Forrest. Ms. Owens is here to remind the Commission to apply for the research advisory committee for the World School Act. Commissioner Rardin informed me that you have already applied for the committee. We are seeking anybody that is interested. There are different categories besides political entities. There is also industry and education. There are three different categories to serve on

this Resource Advisory Committee. The Resource Advisory Committee will serve five counties in Southern New Mexico. Ms. Owens stated that they are trying to get as much interest from Otero County as possible. Commissioner Rardin stated he applied. Commissioner Moore is short termed but he would like to apply to be on the Board for wildlife and energy. The Board thanked Ms. Owens for coming down and giving this report.

3. Elected Officials, Department Heads:

a. Consider implementation of a County Employee Agreement regarding cell phone use while driving/operating county equipment/vehicles.

Commissioner Moore stated that he sits as the Chair of Workmen's Comp Advisory Board for New Mexico Association of Counties. This was brought to our attention by our insurance providers. It is a statement that hopefully all the Counties will embrace and put into their Personnel Policy. Draft has been provided and it discusses the use of cell phones. Our insurance is asking us to consider some kind of policy. It is becoming more of a safety issue as far as risk management and loss prevention.

Commissioner McGinn asked what the rates will change to if we make this decision. Are they going to lower the fees? Commissioner Moore stated that there is no discussion about fees at the moment.

Commissioner Rardin stated that we will be going through our Personnel Policy, maybe that will be a good time to bring this subject up. Lisa Hall, Human Resource, recommends that it not go into the Personnel Policy. Changing it would become so cumbersome. We have a standard operating procedure for County vehicles. It would be her recommendation to add this to that standard operating procedure instead of the Personnel Policy.

Commissioner Moore requested Ms. Hall to submit these recommendations to the Commission in

writing. This item will be put on the next agenda.

4. Resolutions, Contracts & Agreements:

a. Consider approval of Resolution #11-19-09/98-19 authorizing the County's purchase of excess sick leave hours from eligible employees at ½ the value of said sick leave.

Commissioner McGinn requested the amount this will cost from Donna Brandon, Financial Director. Ms. Brandon stated that currently we have 36 employees that qualify and the total amount needed is \$23,030.00. When we did the budget in July, Ms. Brandon did her estimates based on who had the appropriate hours on the books at the time. The appropriation through all the County Departments that she made to cover the sick leave buy back was \$23,321.00. This was the amount that was budgeted.

b. Consider approval of Resolution #11-12-09/98-20, establishing parking spaces for property tax payments at the Otero County Treasurer's Office.

Ray Backstrom stated that two times a year the Treasurer's Office sets up special parking to accommodate the taxpayers coming in to pay their property taxes. There has been an issue with other vehicles parked in those spaces long term. The resolution will give the County authority, based on what the attorney has said to enforce a 30 minute parking in those areas.

Commissioner McGinn stated that she agrees that we need to have public parking spots available near the entrance. It doesn't need to be just for the Treasurer's Office during tax time, it could be for use anywhere inside the building. Commissioner McGinn doesn't believe a time frame is necessary. As long as we have the three spaces available to the public as customer service. Why do we need a resolution to say these are spaces for the public to park in, not the employees.

Commissioner Moore made a motion that we consider the approval of Resolution #11-12-09/98-

20 to establish parking spaces for the public use in County. The motion was seconded by Commissioner McGinn for discussion.

Commissioner Moore stated that we have done this informally every tax season. Since this has been brought to his attention, he has visited with Dale Palkki, County Assessor, and some of the other elected officials. They feel what would be more beneficial, instead of having three spots just during tax season, maybe designate five spots for customer service. The reason for the resolution is that we had put three spots up and employees were parking in them. The signs were unclear only stating tax payers. Commissioner Moore met with our County Attorney, Dan Bryant, to ask him what authority he had. Mr. Bryant stated that he had the authority, but without a policy decision from the Commission, we couldn't act on it.

Commissioner Rardin stated it's just a resolution and not an ordinance making a law.

Commissioner Moore agrees with Mr. Palkki, it needs to be a public customer service spot with a 30 minute limit on it. Commissioner McGinn stated that we can agree on that and say that right now in the meeting and staff can carry it out. Commissioner Moore stated that the problem with staff carrying it out, when Commissioner Moore asked Ray to call and have the employees move their cars, they refused. The Board discussed having 5 spaces versus 3 spaces at 30 minutes each.

Commissioner Moore made a motion to withdraw his motion to give staff the opportunity to amend it where it will be a benefit to the citizens and bring it back. The motion was seconded by Commissioner McGinn. No action was taken at this time.

5. Commission Discussions/Action Items:

a. Commissioner Rardin introduced Bob Woods and his wife Helen who are very active in the environment. Commissioner Rardin would like to ask the permission of the Commission to research

the possibility by way of a committee put together to explore the idea of Otero County creating their own Environmental Improvement Board. There are several counties that have their own Board. Commissioner Rardin stated that he was in Albuquerque at a meeting that PNM put on. There is a petition in the back that talks about Economy Inc. who is an extreme environment group that wants to put a cap on carbon trade. They want to regulate it at the cost it was in 1990. If this was to pass, it would shut PNM down and the coal plants. At the meeting it showed that New Mexico does not even effect them. This group really wants a cap. Environmental Improvement Board is looking to pass this on January 11th. Oil and Gas was represented well at the meeting. They said if this were to pass it will shut down every oil and gas well in New Mexico. This would take the revenues away from the state, which is 50 percent of the budget. Commissioner Rardin is asking permission to get with Paul Gutierrez from the Association of Counties, to disperse this information to the 33 counties.

David Kirby asked if the Commission has taken any steps to inform the public. Commissioner Rardin stated that's what we are doing now and we also have press releases ready to go out.

Helen Wood stated that if the governor signs one of the bills that is in Santa Fe they will be shutting down 7 field offices, which Alamogordo will be one. One of the problems that you will be dealing with, if they do this, you have to find some way to save those records that are in that office. Once they are packed up and taken to Las Cruces, we will never see them again.

b. Commissioner Rardin discussed the Southwest Transmission Project. The Department of Defense is greatly opposed to this project. It is a billion dollar project and none of the power will be going to New Mexico, it will all go to California. Holloman Air Force Base is against it because it will limit their flying ability. According to Commissioner Rardin, ranchers in that area are against it also.

Commissioner Moore stated that they want to run the line right down through Otero County,

along restricted airspace and right in the way of the landing strip. Commissioner Moore says to give it back to the Prairie Dogs and Gophers on the other side of the mountain.

6. 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, C. Personnel, D. Land, E. Roads, F. Detention Center, 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 A. thru G. as listed on the agenda 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 12:30

p.m.

APPROVED:

Ronny Rardin, Chairman

ATTEST:

Robyn Holmes, County Clerk

Work Session
November 12, 2009