

**Regular Meeting**

**January 24, 2008**

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 Chairman at 6:00 p.m., January 24, 2008; 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:

Doug Moore

Chairman

Clarissa McGinn

Vice-Chairperson

Michael Nivison

Member

Ray Backstrom

Assistant County Manager

Dan Bryant

County Attorney

Pamela Heltner

Commission Liaison

Bill Lee Parker

Public Works Director

Lynn Estrada

Deputy Clerk

**DRAFT**

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

**New Business:**

Roberta Hanneman, Otero County Safety Officer, presented safety awards to Otero County Administration, Assessor, Clerk, DWI, Health Care Services, Purchasing and Treasurer's Offices.

**1. Consent Agenda:**

Commissioner McGinn made a motion to approve by consent, items A1 thru E14 on the consent

agenda with the exception of item 5 and item 14, to be pulled for discussion. The motion was seconded by Commissioner Nivison. Commissioner Moore had a comment on item 8 which is the Sole Community Provider Medical Services Fund. Our staff has worked hard with the hospital staff to make changes with the forms and it has been well received. Our approval of claims is up and would like to thank our staff and the hospital staff in making the process easier for the people that need these services. A vote was taken and the motion passed unanimously. See pages

a. Request approval of Resolution #01-24-08/96-36, relating to Article 12 of the Otero County Subdivision Ordinance, establishing certain non-refundable administrative fees associated with forming a subdivision in Otero County.

Commissioner McGinn made a motion to approve Resolution #01-24-08/96-36 for discussion. The motion was seconded by Commissioner Nivison. Commissioner McGinn stated that the last Commission Meeting where this item was brought up, we discussed verifying the increase in cost to show there were actual costs incurred by the county to provide that service. We don't have any justifiable cost information, and see no reason to make it more difficult for people in the community to pay higher fees to go about doing business in Otero County. Commissioner McGinn recommends that we keep the same fee and rate structure that we had in the previous subdivision ordinance. A vote was taken and the motion failed, 3 against and 0 for.

b. John Blansett-request approval to reallocate the Southwest Border money from vehicle laptops to standardization of handguns. This will have a zero effect on the general fund.

Commissioner McGinn made a motion for approval to reallocate the Southwest Border money. The motion was seconded by Commissioner Nivison for discussion.

John Blansett, Sheriff and Norbert Sanchez, Investigator, approached the Board to explain the switch. Mr.

Blansett stated that there wasn't even the fraction amount of money to accomplish getting this program started. The Jail Administrator and I talked about using this money for standardization of handguns instead of the laptops. We are spending a great deal of money on ammunition with everyone having different types of weapons. Mr. Blansett introduced Lewis Reeves, the Range Master to further explain the switch. Mr. Reeves stated that the first thing we looked at was officer safety. All handguns will be alike. If, for whatever reason one officer goes down, he can use the ammunition from his partners gun. We can put in more training with the money saved on buying one type of ammunition. This will be an incentive for hiring, if their handguns and leather are furnished. This would be one cost that the employee doesn't have to come up with. The men will be much easier to train with one type of handgun. The guns are very simple to operate with 3 safeties in them. The weapon that we are asking to go to is a glock model 22 and this weapon is used worldwide. Mr. Blansett stated that the weapons and the holsters will belong to Otero County. This will give us more control of how these guns are kept clean and the upkeep. It will be an inventoried item that will be signed out to the deputy. Commissioner Moore asked within the monies that the Sheriff has, will there be any spare weapons. Mr. Lewis stated that we are going to put handguns on everyone at the Sheriff's Office, all the patrol, detectives, jail transport personnel, Courthouse Security and we will have 2 spare weapons. A vote was taken and the motion passed unanimously.

**2. Citizen Communications:**

a. Richard Lachotta-discuss repairs of flood damage on the east side of San Pedro between Solana and Simon Lane.

Mr. Lachotta approached the Board and stated that he will keep his talk brief as the Commission is aware of the flooding problems in his area. The floods have increased in the last 4 years in the Boles Acres area. Personal expenditures to fix and fill in the holes for the last 2 years have amounted to about \$39,000.

In 2006 the road was washed out again. Dr. Moore and Bill Parker came out to inspect and discussed with Mr. Lachotta what it would take to fill the holes. Mr. Parker told Mr. Lachotta that 1 or 2 loads should take care of it. Nothing happened for awhile and Mr. Lachotta spoke with Dr. Moore again in March of 2007. Mr. Lachotta was asked to sign a letter on the 9<sup>th</sup> of March that would give the Road Department permission to come on to his property. About a week later Mr. Lachotta went to see Mr. Parker and he told me, this is what we are going to do. So Mr. Lachotta assumed this is what they were going to do since Mr. Parker told him that they were going to do something. Nothing has been done and the holes are still there. Mr. Lachotta stated that he will hire somebody to come out and fix the holes if he has to, Commissioner McGinn stated that if she understands correctly, because she has heard some of this, she does agree with Mr. Parker's assessment that the work to be done is on private property. We have turned down other peoples request to fix things on private property, because of flood damage. The County can't fix the damage for Mr. Lachotta. Mr. Lachotta stated that this is a road right-of-way, with an additional 20 ft. of his property as an easement for drainage for everybody's benefit. From the center of the road, it's 45ft. In the 12 years that I have lived there the County has never done anything. Commissioner McGinn stated that the County Road Shop did go out in June of 2007 and laid some base course. Mr. Lachotta stated that they had some jail inmates out there and laid 5 wheelbarrows of dirt, less than a yard. Commissioner Moore stated that this area was flooded in 2006 and flooded again in 2007. We went out there and assessed some of the damage to the drainages. Part of it was ditches and part was so much water came out of the ditch. We did work where we could and we cut trees down and cleaned some ditches. At Mr. Lachotta's driveway, the water came through his culverts for his driveway. The ditch is huge and it rolled the water and undermined the concrete apron and got out to the edge of the road. The other side of the ditch, it eroded it out and exposed the phone wires. Due to the anti donation clause the County can't enhance

private property. We had discussion internally about setting a precedence, if we do this for one property owner and not the other. We have gone on private property with permission letters to do work that was good for the community. I don't believe we set a precedence when we did this type of work. Mr. Parker's concern is about setting a precedence. Mr. Parker stated that his problem with this is the driveway permits, which many don't know that they are required to obtain these in the County. On the driveway permit you have to explain what you are going to do and the owner will be required to maintain and keep in good repair. There are probably 50 to 100 people that the same thing has happened and Mr. Parker has not gone out and fixed. If we do this then all those people may come back on us. We have always cleaned bar ditches, but not their culverts or their driveway culverts, and that's what he has based his decision on. Commissioner Moore stated that you have a tough call and have to be fair and right.

John Blansett stated that he has lived out in Oro Vista for 22 years. He has never seen anybody's culverts cleaned out at what's being proposed. He believes the Commission is setting a precedence for anyone who wants to complain. He had 18 inches of water in his corner this last year and if all it takes is a letter to the Board to get this thing fixed, you will have a letter on your desk in the morning.

Commissioner Moore made a motion to go to the address stated here, 94 San Pedro and repair the erosion on the downstream side of the driveway, not only in our right-of-way, but on Richards side as well to cover up the phone wire. The motion died for lack of a second.

### **3. Commission Discussions/Correspondence:**

a. Commissioner Moore stated that in October he went to Albuquerque and visited with the Corp of Engineers Office to have them do some flood analysis work for us. We had six drainage sites that we are concerned with. There is a program that we can get in to which is called the General Investigation Program. We have to present a letter requesting that they come on board, if they can get appropriations from

Congress and get us on the list they will come out and do a reconnaissance study of the drainages in question. That would be completed within a year. The Commission is looking to create a flood district and an analysis is required.

Commissioner Moore stated that he visited with the Forest Service and personnel from the GIS Department. The old map actually showed roads that weren't roads at all. They were old wood cutting roads and trails. The Forest Services new map shows some development of some new 4 wheeler trails and a closure of 2 little dead end pieces of roads. The new updated map will be on display in this room tomorrow.

b. Commissioner McGinn stated that recently the Secretary of Interior added White Sands National Monument to the World Heritage tentative list. Commissioner McGinn would like to direct our County Attorney to send a letter to the Secretary, demanding that White Sands National Monument be removed from that tentative list before it's ever approved as an actual World Heritage Site, per our ordinance we passed last year in October.

Dan Bryant stated that in addition to the Secretary there is a specific portion of the National Park Service. It is an international affairs group that we need to communicate with. There are 2 contractors that are working with them on the tentative list and we should identify the human being with those contractors that are working on the White Sands issue and send a letter to them as well. In addition to that in digging around in the rules, under the UN Rules governing nomination for World Heritage Site status, if your country presently has a seat on the Board you are denied permission during that tenure to make a nomination. The U.S. has had a seat on the Board starting in October of 2005 and it will expire in October of 2009. So no action can be taken with any U.S. site until after October of 2009. We have a little bit of time to identify the right people and get a letter to them as well. When we did the World Heritage Ordinance we referred

back to 3 ordinances that the County enacted in the 1990's, governing the NEPA processes, civil rights and our relationship with federal land agencies here in Otero County. All of the statutes that give the decision making power, requires them to take account of, to include, to consult and to incorporate in a consistency analysis local ordinance and process. This is what the National Park Service has completely and utterly failed to do in this effort to nominate White Sands. Mr. Bryant recommends to not only send a letter asking them to remove White Sands from the designation, but we also notify them of their violation of all four ordinances. Also include a 60 day notice of intent to sue in Federal Court for violation of NEPA, FLIPPA and Federal Lands Management Act. All of the above require consistency and they just haven't done it. Finally, we should invite a representative from each one of those groups for a meeting with the Board of County Commissioners so that we can make them understand what our concerns are in this community and why we won't sit back and let them ignore us.

Commissioner Moore stated that whoever signed the letter needs to be cited for violation of a County ordinance. Dan Bryant stated that the maximum allowable statutory fine under New Mexico Law is \$300.00 or 90 days in jail.

c. Commissioner Nivison stated that we have gotten all our capital outlay in to the Legislators as requested.

#### **4. Unscheduled Citizen Communications:**

a. Janet White stated that on behalf of the people who signed the petition in opposition to the World Heritage Site, she would like to commend the Board on their proposed actions and their actions in the future.

#### **5. Executive Session:**

Commissioner McGinn made a motion to go into Executive Session to discuss items under C. Personnel, D.

Land-the Federal Building, G. Contracts- Review of Professional Service Agreements and Animal Control and A. Collective Bargaining-Labor Management Relations Board. The motion was seconded by Commissioner Moore. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Nivison	yes
Commissioner Moore	yes

Commissioner McGinn made a motion to come out of Executive Session having discussed items A. Collective Bargaining-Labor Management Relations Board, C. Personnel-Human Resource Director and Sheriff's Office employee, D. Land-Federal Building, and G. Contracts-Review of Professional Service Agreements and Animal Control, having made no decisions. The motion was seconded by Commissioner Moore. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Nivison	yes
Commissioner Moore	yes

There being no further business before the Board, the Chairman adjourned the meeting at 8:05 p.m.

APPROVED:

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Doug Moore, Chairman

ATTEST:

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Robyn Holmes, County Clerk

Reg. Meeting Jan. 24, 2008