

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 Chair person at 6:00 p.m., February 8, 2005; and she announced that reasonable notice for this meeting was given to the Alamogordo Daily News and to Radio Stations, KPSA, KINN and KYEE.

Present:

Clarissa McGinn	Chairperson
Doug Moore	Vice-Chairman
Michael Nivison	Absent
Ruth Hooser	County Manager
Ray Backstrom	Assistant County Manager
Dan Bryant	County Attorney
Bill Lee Parker	Road Superintendent
Lynn Estrada	Deputy Clerk

DRAFT

Pastor Smith gave the invocation. Commissioner McGinn led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

Presentation: Consider approving a Proclamation for World Marriage Day in Otero County on February 13, 2005. Commissioner Moore read the Proclamation for World Marriage Day into the records. Commissioner Moore made a motion to approve the Proclamation recognizing World Marriage Day in Otero County as February 13, 2005. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

Unfinished Business: Consider approving a Space Sharing Agreement between City of Alamogordo and Otero County Sheriff's Department regarding leasing space in a building located at 1175 26th Street in Alamogordo, to be used only for law enforcement purposes. Commissioner McGinn stated that this item was tabled from our last Commission Meeting to have some questions answered and our concerns addressed about the out clause that was in the previous contract. This has been addressed and has been inserted into the agreement. There was also a question concerning the ownership of the building. John Blansett, Sheriff, stated that he had spoken with Dan Bryant about the ownership and Dan assured him there is no problem with the way it is written. Commissioner Moore a motion to approve the Space Sharing Agreement between City of Alamogordo and Otero County Sheriff's Department. The motion was seconded by Commissioner McGinn. Commissioner Moore asked Dan Bryant if the legal representation from the City will accept the language changes in the agreement. Dan stated that all the revisions that the County wanted were fine with them. A vote was taken and the motion passed unanimously. See pages

1. **Consent Agenda:** Approval of Minutes, Bills Lists #33, #34, #35, Indigent monthly report and Personnel and Purchasing.

Commissioner Moore made a motion to approve items A, B, C, D and E. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

2. **Resolutions, Agreements & Ordinances:**

a. Consider approving Resolution No.02-08-05/93 regarding supporting Las Cruces Memorial Medical Center's request to the State of New Mexico for payment from the Sole Community Hospital provider fund in the amount of \$183,184.00 for fiscal year 2005/2006, and establishing Otero County's maximum payment to Memorial Medical including Federal matching Funds.

Commissioner Moore made a motion for discussion to consider for approval Resolution No.02-08-05/93. The

motion was seconded by Commissioner McGinn. Commissioner Moore stated that this issue was brought forth in October. Our request was made to this entity to respond, and we have had no response at all. This item appeared on the agenda at the Work Session, and he is not in favor of it until he can have more information. This item should have been budgeted for in capital outlay if we had planned on doing it again. Phil Rivera, Chief Financial Officer of Memorial Medical, stated that Memorial Medical, each year request funds from various Counties that it serves. Typically, we are usually requesting these funds about the same time every year and it's usually a January 15th deadline. Memorial Medical usually asks for an extension of the deadline until February 15th. Commissioner Moore stated that these requests are done in the fall. He asked Ruth Hooser, County Manager, if communication was sent to Memorial Medical that we were going to have October meetings regarding this issue and if they had any interest or claims to bring forward. Ruth stated that Gloria Sainz, Indigent Coordinator, had sent communication to Memorial Medical and there were no responses from Memorial Medical. Dan Bryant explained the supplemental funds that had been allocated to Memorial Medical in prior years. If you make the approval tonight, you need to remember when the supplemental comes this summer; if it comes we have already included that in this amount of \$183,184.00. Commissioner McGinn stated that if we don't approve this request for sole community provider, is supplemental funds still available to Memorial Medical Center. Dan stated that yes the funds would still be available to them because that's the way we started. Commissioner McGinn was under the impression that we paid Memorial Medical only one time to take care of some claims that we had from the Chaparral area. We have Gerald Champion as our sole community provider, her question is has Memorial Medical applied to be a sole community provider? Mr. Rivera stated that Memorial Medical is a sole community provider for Dona Ana County and we also qualify under that designation for the other counties that we apply for the funds. Commissioner Moore stated that he is not ready to approve this request under the assumption that we are going to receive supplemental funds, and

other issues that we aren't going to talk about right now. Mr. Rivera stated that one of the down sides of not approving this request is the leverage of the federal dollars. Mr. Rivera stated that not approving this by the deadline we lose the 3 to 1 match from the federal government. A vote was taken and the motion did not pass with Commissioner Moore voting no and Commissioner McGinn voting no. See pages

b. Consider approving Resolution No.02-08-05/93-31 regarding a budget increase for surplus equipment sold at the auction for the Otero County Road Department in the amount of \$51,870.00.

Commissioner Moore made a motion to approve Resolution No.02-08-05/93-31. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

c. Consider approving Resolution No.02-08-05/93-32 regarding a change of the 2004/2005 New Mexico State Highway Department cooperative agreement adding Riata Road 8/10th of a mile.

Commissioner Moore made a motion to approve Resolution No.02-08-05/93-32. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

d. Consider approving a 2003 Legislative Reauthorization Grant Agreement Amendment for the Flickinger Center for Performing Arts in the amount of \$200,000.00.

Commissioner Moore made a motion to approve the 2003 Legislative Reauthorization Grant Agreement Amendment. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

e. Consider approving Agreement No.15-FY05-ESS between Otero County and Elections Systems and Software for the Otero County Clerk's Office.

Commissioner Moore made a motion to approve Agreement No.15-FY05-ESS. The motion was seconded by Commissioner McGinn. Commissioner McGinn stated that we had some discussion at the Work Session regarding the language in the contract for the software that it does address the issue of the software provider

being able to sale the information. The language was changed last year to state that the software provider can't sell the information. Dan Bryant stated that the County Clerk and the Secretary of State are the only ones authorized to have the voter information. A vote was taken and the motion passed unanimously. See pages

d. Consider approving a Legislative Liaison Agreement for 2005 between Otero County and New Mexico Outsourcing, Inc. (Maurice Hobson).

Commissioner Moore made a motion to approve the Legislative Liaison Agreement. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

e. Ratify an Encroachment and Hold Harmless Agreement between Otero County and Vernon L. and Kathleen Norris regarding erecting a porch on their property located at 6 Main Marion, Robin Hood Park Subdivision.

Commissioner Moore made a motion to approve the Encroachment Agreement. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

f. Requesting permission to advertise for a public hearing regarding Ordinance No.01-05 amending the Otero County Subdivision Ordinance. (Sacramento Mountain Checkerspot Butterfly).

Commissioner Moore made a motion to advertise for a public hearing regarding Ordinance No.01-05. The motion was seconded by Commissioner McGinn for discussion.

Dan Bryant stated that the County is deeply involved in Federal Land's issues. Over the last year we were made aware of a concern expressed by the US Fish and Wildlife Service over the Sacramento Mountain checkerspot Butterfly. Dan suggested to these folks that they concentrate on the preservation of that already extinct species which was the Sacramento Mountain checker flannel shirt logger. The parties came to the conclusion that we don't yet know enough about the checkerspot butterfly to know what is critical habitat, or what its food plant species is. Instead of designating critical habitat which would have the effect of laying down over the landscape

the direct application of NEPA and Endangered Species Act and subject everything that happens in critical habitat to direct Federal Regulations, it would be better for the local governments that are involved, US Fish & Wildlife, New Mexico Game & Fish and the National Forest to all get together and develop a Conservation Plan. There have been several meetings with these entities that resulted in a draft Conservation Plan which was published in early December. Commissioner McGinn stated that the draft addresses some 50 acres outside of Cloudcroft. Dan presented a map of the disturbed occupied areas where they know that the butterfly is there but it's being disturbed or disrupted to some extent by other activities that are going on the land. The acreage is largely centered around creek bottoms, canyon bottoms and the meadows that are in the bottoms of various canyons that are in the Cloudcroft area. Dan stated that the Ordinance is just a draft, the Board is not being asked to approve the Ordinance. What they are being asked to do is set-up 2 or 3 Public Hearings, approve it for publication and go out in the community and get comments from the people who will be effected by the Ordinance. A vote was taken and motion failed, with Commissioner McGinn voting no and Commissioner Moore voting yes.

3. Elected Officials/Department Heads:

a. Consider approving one appointment for the Otero County Planning Commission, Julie Winkles, as the Cloudcroft representative.

Commissioner Moore made a motion to a approve Julie Winkles as the Cloudcroft representative. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

b. Consider approving the Board of Registration-2005 Purge Process for the Republican Party of Otero County and Democratic Party of Otero County.

Commissioner Moore made a motion to approve the Board of Registration 2005 Purge Process to include for the Republican Party, Don Michael, Timothy Rabon and for the Democrat Party, Steven Dubois. The

alternates would be Carol Beckett and Carl Work. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

c. Cathy Prather, Chief Deputy Treasurer, gave a short update on our investments. We have a little more revenues with the interest rates rising.

The Board thanked Cathy for her report and keeping them informed on our investments.

4. Commission Discussion:

a. **Doug Moore**-Requesting permission to advertise for a public hearing regarding Ordinance No. 02-05 regarding the Otero County (Interim) Comprehensive Land Use Plan that contains specific stipulations and requirements for oil and gas production and exploration on lands within the political boundaries of Otero County. Commissioner McGinn stated that this item was brought to us by several citizens out on the Mesa area. This item was on the agenda at the last meeting but tabled for language changes. The new language has been added and will need 3 or 4 Public Hearings before it's passed.

Commissioner Moore made a motion to advertise for a Public Hearing regarding Ordinance No. 02-05 regarding the Interim Comprehensive Land Use Plan. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

b. **Clarissa McGinn**-Statement of walk-thru at the Otero County Detention Facility scheduled on February 2, 2005.

Commissioner McGinn stated that we did tour the facility to include the Kitchen facilities, the Pod Control, Booking, Central Control, Medical facilities and Administration. The Commission was served the same meal as the inmates.

5. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss pending and threatening

litigation, personnel issues, land, roads, Detention Center and collective bargaining. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner Moore yes

Commissioner McGinn yes

Commissioner Moore made a motion to come out of Executive Session having discussed pending and threatening litigation and personnel issues only and no decisions were made. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner Moore yes

Commissioner McGinn yes

There being no further business before the Board the Chair person adjourned the meeting at 9:25 p.m.

APPROVED:

Clarissa McGinn, Chair person

ATTEST:

Robyn Silva, County Clerk

Regular Meeting Feb. 8, 2005