

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 Courthouse in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 9:00 a.m., February 28, 2007; 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	Absent
Dr. Martin Moore	County Manager
Ray Backstrom	Assistant County Manager
Dan Bryant	County Attorney
Pamela Heltner	Commission Liaison
Lynn Estrada	Deputy Clerk
Bill Lee Parker	Road Superintendent

DRAFT

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

New Business:

Presentation:

a. Information regarding the proposed rules and regulations of the Lower Pecos River Basin Water Master District.

Sara Rhoton, Project Manager for the development of the rules and regulations that deal with water use in the lower Pecos River Basin approached the Board to give her presentation. Ms. Rhoton asked the Commission to follow along with her in the packets that have been handed out. The State Engineer for the State of New Mexico is authorized by statute to divide the State into water districts. It is done in conformity with the drainage areas for the purpose of performing the essential governmental function of distributing water, among water right owners in accordance with the laws of the State of New Mexico. The State Engineer may appoint a Water Master who will have immediate charge of such apportionment of waters. According to the maps, Otero County has within it's boundaries a portion of the Hondo Watershed drainage and almost all of the Penasco Watershed drainage. The State Engineer recently declared the entire lower Pecos River basin, Water Master District. The statute enables the State Engineer to put together a budget for the Water Master, which accounts for all the Water Master's expenses. These expenses can be assessed to the Counties. Commissioner Moore stated that the Board would like to know more about what the objectives of this new Water Master will be? Commissioner Moore is concerned about the needs and requirements of our mountain residents that are separate and different than the lower Pecos Basin. We want our mountain residents to have fair and equal treatment. Ms. Rhoton stated that the spirit of the rules and regulations are precisely that, to fair and equitably treat all the water right holders in Otero County. Ms. Rhoton stated that the State Engineer does not believe that the County's should cover the expenses of the Water Master. He would prefer to get these funds through the Legislators. The Legislative Finance Committee also feels that it should be state funded. It is looking very promising, but the legislative session isn't finished yet. Dan Bryant stated that he didn't see the boundaries for the Mescalero Apache Reservation on the map presented. In particular those parts of the Hondo that are in Otero County. On page 4 of the maps, Mr.

Bryant believes that every bit of this is in the Mescalero Apache Reservation. He is certain that the upper regions of the Rio Ruidoso are in the boundaries of the reservation. Otero County does not regulate the Mescalero Reservation, it's an independent nation. We do need to interface on this issue. Ms. Rhoton thanked Mr. Bryant for pointing this fact out. She is not knowledgeable with an independent nation, but will get some answers on this issue.

Dr. Moore asked Ms. Rhoton if the rules and regulations that she keeps referring to have been drafted?

Ms. Rhoton stated that they are not finalized as of yet. Commissioner Moore is very apprehensive about the Water Master who spends a whole lot of time in areas other than Otero County. He has great concerns because that water master is going to be the authority on ground and surface water.

Bebo Lee, who lives in Southern Otero County, stated that he and several others were present at the Legislative Session when this bill was enacted. The main reason for our objection of this statute is that it doesn't deal with watersheds. The mountains are mostly National Forest, and the State Engineer has no way to manage watersheds in the Forest.

Ms. Rhoton stated that when it comes time for the Water Master to actually begin doing his work in a sub district where he is assigned, it will be his job to put together a Water Master Manual that will be a public document. This document will detail his job of what he does and how he does it.

Commissioner Moore thanked Ms. Rhoton for her in depth presentation. The Board has a much better understanding now of what to expect.

b. Progress of the new Otero County Purchasing Supply Center.

Ginger Herndon, Purchasing Agent, approached the Board for an update on the Purchasing Store. The store opened in October of 2006. We determine what to stock it with by a list that was sent to the departments of what they use in office supplies throughout the year. We do update the list periodically

per different requests from the departments. The Fire Departments are also purchasing from us.

Commissioner McGinn asked if we are having any difficulties in keeping things in supply that have been requested or needed. Ms Herndon stated that there have been a few items that weren't on the list and she has asked the departments to put what they need on an updated list.

The Board thanked Ms. Herndon for her update.

c. Presentation of the proposed Otero County Subdivision Ordinance with a request for approval to hold a public hearing on March 27th, with anticipation of a vote for adoption of the proposed revised Subdivision Ordinance.

Ray Backstrom, Assistant County Manager, stated that we started revising the ordinance several years ago and we have held several public hearings in the last calendar year. We have received input from the public, local contractors and different organizations. All of the requests have been gone over a multiple of times and we have reached the point where we would like to have one more public hearing and at the conclusion of the public hearing, potential action from the Board to adopt the ordinance.

Commissioner Moore directed staff to put this ordinance in front of someone who is knowledgeable in these type things and have them read it from front to back for consistency.

1. Consent Agenda:

- a. Approval of Minutes
- b. Bills Lists #37, #38, #39, #40
- c. Health Care Services for February 2006

Consider approving or denying claims for our Sole Community Provider, Gerald Champion Regional Medical Center. 72 claims are recommended for approval for a total of \$181,158.36 and 30 claims for denial in the amount of \$181,130.28.

2. Resolutions, Contracts & Agreements:

a. Consider approving Resolution No. 03-06-07/95-46 requesting reimbursement from the New Mexico Finance Authority for capital expenditures that will be made by Otero County on behalf of Alamo West Volunteer Fire Department for the new fire station addition being built at the main fire station.

Paul Quairoli stated that the legislative money is not enough to finish this project. We asked the New Mexico Finance Authority for \$160,000.00 to be paid to the County in order to pay the contractors up front to complete this project. This way we will not be using money from the general fund.

b. Consider approving Resolution No. 03-06-07/95-46, requesting approval to secure a loan from the New Mexico Finance Authority to replace the vehicle currently being used by the Emergency Services Coordinator. Funding for a new vehicle has been approved by the New Mexico State Fire Marshal's Office using Fire Fund Allocation money. This request will not impact the general fund. The requested amount is \$40,692.00.

Paul Quairoli, Emergency Service Coordinator, stated that this vehicle is not on State Contract so we had to go out for bid for this vehicle. This vehicle will be paid by the New Mexico Finance Authority and they in turn will be reimbursed from the State Fire Marshal's Office.

c. Consider approval of the yearly contract renewal for water table well monitoring with State Wide Drilling. This is the first year of an optional three year renewal contract. The cost of this contract is \$250.00 a month.

D. Consider approval of the two annual contracts with Strategy 7 Corp. for maintenance on hardware and operating system software on the counties mainframe computer. The cost for maintenance on the hardware is \$598.00 annually. The cost for the operating system software is

\$1,540.19. Both maintenance contracts are for the IBM P615 which replaces the IBM/RISC/6000 maintenance, which will be allowed to expire.

Ray Backstrom stated that we were notified earlier this year when renewal for maintenance on the RISC system came due. We applied to have it renewed and IBM notified us that we had to upgrade our operating system in order to do this. We have ordered the upgrade, only to be told by IBM that the new upgrade wouldn't run on our old hardware. We have replaced the old hardware with the new IBM P615.

3. Elected Officials, Department Heads, Committee Reports:

a. The Otero County Grazing Advisory Board is requesting the support of three resolutions adopted by the Otero County Cattleman's Association. Resolution No. 2007-1, removal of Oryx from all areas outside of the White Sands Missile Range. Resolution 2007-2, prevent reintroduction or territory expansion associates with any large predator. Resolution 2007-3, removal of lions from protected animal list.

Bebo Lee approached the Board and stated that he was asked to represent the Cattleman's Association today, if the Board had any questions about these resolutions that are being presented. Commissioner McGinn stated that she does support all of these resolutions, but do we have the mechanism in place if the performance isn't done per our request, can the County go in and take care of business? Dan Bryant stated that there are a number of statutes out there that will take us part of the way down that path. Do we have a clear line of authority that would grant us unquestioned power, jurisdiction to go and conduct County predation hunts to eliminate the threats? The answer is no. When Mr. Bryant reviewed the resolutions that were passed by the Cattle growers, they ask the County to send some petitions and to draft ordinances that would attempt to craft some of that power and

jurisdiction. Mr. Bryant stated that we could certainly look into that. Commissioner McGinn stated wouldn't it be applicable to have one general ordinance? Mr. Bryant stated that Senate Bill 1 and our general powers give us the ability to make the effort to enact an ordinance. Whether we get past a rule of construction in the law, which the courts will some times use to say yes, that statute gives you that power, but this statute grants exclusive control of this subject to this entity instead of you. Then they will ignore the County ordinance because it has been pre-empted by this other statute. It's a specific law versus general law. We have life, health, safety protection power and Senate Bill 1 power in our interface with our actions on federal land. We also have state game statutes and rights that are granted to land owners to take an animal that is causing immediate injury to ranchers or their cattle. We could put those things together into a document and create the best vehicle available under the law. Will it be successful in a court of law? It will be our best shot at getting there.

Commissioner Moore stated that he would like to have a public hearing on these resolutions. He would love to have some of these folks in the room and explain to him why they want the wolf.

Commissioner Moore doesn't want the wolf released any where in Otero County. What mechanism can I put in place that would restrict a federal agencies ability to attempt a re-introduction of the wolf. Whatever mechanism there is, let's use that specifically on the wolf.

Commissioner Moore talked about the lion. Mr. Lee stated that the lion is under the protective animal list right now. In the 1970's they were considered a varmint and you could shoot them on site, but no longer. Commissioner Moore stated that there are more lions around here now than ever before. He would like to have facts and figures in the resolution in order to get them off the protective animal list.

4. Public Hearing:

- a. Martin Moore/Dan Bryant-Consider amending the Otero County Personnel Policy Ordinance

98-01.

Dan Bryant stated that we are amending the policy in the sense where we are not going to repeal an ordinance in its entirety. The changes are dramatic and the organization in the draft is different. The draft was provided in late September and we received a number of responses back and incorporated them into the draft. Most recently we have conducted a couple of three hour meetings with the elected officials and department heads, working our way through questions, suggestions and comments. Mr. Bryant's staff is working hard at word processing this ordinance into a document for the Board to have by the March 6th meeting.

Commissioner McGinn stated that the comments that are provided in the draft are from staff and personnel that have attended the meetings. Has there been changes made to the draft language, or are we talking about another meeting to iron out all the language changes based on the comments that were given? Mr. Bryant stated that the revisions are not large enough to require another meeting. The draft is far enough along, that it is ready for the Boards action. Any ordinance like this needs to be reviewed from time to time and if we need to change something then we amend that portion.

John Blansett stated that there are still some concerns with the language in the ordinance. The more issues that are cleared up with the committee the better. One more meeting with the committee and Dan Bryant before the next Commission Meeting, we should be able to iron out the problems that we have concerns with. Dan stated that we can have another meeting, but at some point we will have to come to some closure, because it will never be perfect.

b. Dale Palkki-Consider preliminary plat approval for Spanish Trail Subdivision.

c. Dale Palkki-Consider preliminary plat approval for Desert Edge Subdivision.

5. Commission Discussions/Correspondence:

- a. Commissioner McGinn-Discuss resolution and update on Laborcita Canyon Road.

Commissioner McGinn instructed staff to prepare a resolution for Tuesday night that states that the County will take action to perform work on land managed by the US Forest Service, where there is erosion that borders and threatens to undermine a section of Laborcita Canyon Road. This road is access to hundreds of residents and serves as an emergency egress route from the mountain areas. The resolution should also address state statute and county ordinance 96-01. It should also address where there is a void in management by the US Forest Service in this area. The county will take action to prevent damage to the road and protect the safety of Otero County citizens in the very near future and when ever necessary in the future.

- b. Commissioner McGinn discussed Riata Road. Over time there has been funding appropriated from the Legislators. The preliminary engineer report came back that detailed a possible solution in two phases, which are two concrete box culverts at approximately \$810, 000.00. Commissioner McGinn would like to direct staff to look into available funding sources, but also to look at alternative ways to extend an existing road from Hwy. 54 across the railroad to Riata. Also send a letter to Southern Pacific informing them that we would like to look at this additional railroad crossing because of life, health and safety concerns.

6. Unscheduled Citizen Communications:

- a. Andrew Gomalak, Holloman Civil Engineering, and Abram Brockman, Holloman AFB Legal Office. Mr. Gomalak stated that they have a housing prioritization initiative on base with one minor gliche. The entire base is federal land for military purposes, the area immediately adjacent to Hwy 70 is not exclusive federal jurisdiction whereas the rest of it is. The prime contractor for the housing project, their lawyers from back east think they need a waiver from the subdivision approval

process granted by the County Commission, to enable them to continue redeveloping the housing at Holloman.

Commissioner Moore stated that it is his understanding that this is a technicality by description of township, section and range. There is a sliver of ground or a pie shape piece that does not fall within the historic limits of Holloman Air Force Base as far as their federal control. Commissioner Moore stated that rather than, give them an exemption to the County Subdivision Ordinance, he would rather give them the land and change the description of the authority on the land to federal. This is a time sensitive issue so we will facilitate any proposal that you gentlemen have.

Commissioner McGinn would like to know why would it be difficult to go through the Otero County Planning process. Dan stated that we have had 2 or 3 meetings with the folks involved and also in attendance the representatives from the private companies that are planning on going in to rehab the base housing. Mr. Bryant drew a map to show the location of the little triangle that is subject to our jurisdiction. There is a street that goes into our jurisdiction on the plans that the developer has shown Dan. Based on the drawing this piece would be eligible for a Claim of Exemption, under the exemption that allows us not to put somebody through the subdivision process if they are not changing the number of lots or the intensity of the usage in this area. His concern was that when the private company went back to their financial people, that the underwriters, the lawyers representing the title company, the lawyer preparing the mortgage documents and the security interests that will protect the lenders so they can be sure to be repaid their money on the project, might require something more. Mr. Bryant's preliminary opinion is that a Claim of Exemption be given because we aren't altering anything in the area where we have jurisdiction. We are not changing streets, we are not adding any housing units or lots.

The subdivision act is a change in those kinds of circumstances, so I see it fitting within the Claim of Exemption process. Mr. Bryant doesn't know whether their underwriters will say this is OK, but from our prospective that's what I think is appropriate. Mr. Bryant has the drawing in his office and he will bring it for the Tuesday night meeting.

Commissioner Moore believes that this process would be a stop gap measure so they can stay on their time line, but I think in the future we need to re-designate that triangle of land. Commissioner Moore stated that the County will help in any way they can to complete this process.

7. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss pending and threatening litigation, land, disposal and acquisition of property. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Moore	yes

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

Commissioner McGinn	yes
Commissioner Moore	yes

There being no further business before the Board, the Chairman adjourned the meeting at 1:24 p.m.

APPROVED:

Doug Moore, Chairman

ATTEST:

Robyn Silva, County Clerk

Work Session Feb. 28, 2007

Budget Work Session Minutes 02-28-07
March 16, 2007

WHAT: Approval of minutes from the budget work session on February 28, 2007

WHO: Mary Quintana, Lynn Estrada, Dr. Martin Moore

The minutes from the February 28, 2007 budget work session have been reviewed by staff for grammar, spelling and substance. All agree that they are true and correct and recommended for approval.