

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., March 12, 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**

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

**1. Consent Agenda:**

- a. Bills Lists #37, #38, #39, #40, #41 and #42
- b. Approval of Minutes
- c. Health Care Services

Consider approving or denying claims for our Sole Community Provider, Gerald Champion

Regional Medical Center. 122 claims are recommended for approval for a total of \$167,905.18 and 45 claims for denial totaling \$96,587.58.

**2. Purchasing:**

a. Request approval of the yearly renewal of contract ICQ-06-015, Basin Pipe and Metal for the sale of metal and white goods in the amount of 55% County and 45% Contractor. This is the 3<sup>rd</sup> year of a four year contract.

b. Request approval to award Sealed Bid 08-017 for the purchase of Fire Arms and Holsters for the Sheriff's Office to three different vendors: Neve's Uniforms in the amount of \$22,935; Pro Force Law Enforcement in the amount of \$3,965.35; Kaufmans West in the amount of \$402.00.

c. Request approval of the yearly renewal of contract TS-06-010 for the monitoring the fire alarm system in the Otero County Courthouse with ESA, Alamogordo, NM in the amount of \$25.74 a month.

d. Request approval to award Sealed Bid #08-019 for a Brush Truck for Boles Acres VFD to ??? in the amount of ????. The information will not be provided until after the work session.

Ginger Herndon, Purchasing Agent, stated that this bid will open tomorrow and the chief didn't want to wait another month to get this item on the agenda. Commissioner Moore stated that it's a cumbersome event to procure this equipment and this is a way to minimize the amount of time. Commissioner Moore is a little concerned that he has an action item on the agenda for Thursday night that is incomplete. He will let this one run its course unless the other Commissioners want to do something different and he doesn't want to set a precedence. Ms. Herndon stated that Oro Vista VFD will be doing the same thing next month. Commissioner McGinn asked if the information will be available by next Thursday's night meeting. Ms. Herndon stated that the information will be available

by tomorrow.

**3. Resolutions, Contracts and Agreements:**

a. Request approval of Resolution #03-20-08/96-49 for the Law Enforcement Protection Fund to reflect the receipt of \$600 additional revenue.

b. Request approval of Resolution #03-20-08/96-50 for the ¼% Fire Protection Fund to reflect the receipt of a New Mexico Finance Authority Loan in the amount of \$47,170 for the purchase of fire-rescue apparatus for James Canyon Volunteer Fire Department.

Donna Brandon, Finance Director, stated that back in October, James Canyon and several other Fire Departments were approved by the Commission to secure loans to buy equipment. The one for James Canyon fell through the cracks up at New Mexico Finance Authority and we did not get the final resolution when we should have, for the loan intercept agreements. We did not catch this until a few months ago. The apparatus has been ordered and due to be delivered at any time. NMFA will not have the final loan agreement until the April meeting, the County has to be prepared to pay for the apparatus when it is delivered. NMFA will reimburse the County instead of paying the vendor directly. Ms. Brandon stated that she is working on a better inventory system, so that we can know what loans we apply for and a better check off instrument for making sure we have all the documents required.

Commissioner Moore stated that we need this mechanism in other departments also. Commissioner Moore directed Ray Backstrom to create a calendar of events of contracts that need to be renewed and any other housekeeping issues that we need to adopt annually. Mr. Backstrom stated that we are currently working on a system for our contracts. We should have it done for the April meeting.

c. Request approval of a Memorandum of Understanding between Otero County and the City of Alamogordo concerning the housing and care of Otero County Animals.

d. Request approval of an addendum to the Emergency Ambulance Services Agreement between Otero County and American Medical Response. This addendum provides for transport, at no charge for all City, Village, County Emergency Service Personnel and County Volunteer Fire Fighters who are injured in the line of duty.

e. Request approval of the operations and maintenance agreement for the Otero County Processing Center between Management Training Corporation and Otero County.

Dan Bryant, County Attorney, stated that we have been in negotiations with MTC for the operations agreement for phase 3 of the Otero County Prison/Detention Facilities, holding facilities, at Chaparral, NM. Phase 1 and 2 are governed by another operation agreement that has been in place since 2003. It has been amended a couple of times. The Phase 1 and 2 agreement is up for renegotiations this year, because it's a 5 year agreement. This agreement was negotiated by Dawn Call, a lawyer on behalf of MTC and Mr. Bryant. In November, Ms. Call and Mr. Bryant reached an impasse on 2 items in the agreement. Those are on page 18 of 37 and 20 of 37. When we reached our impasse, the suggestion was that the decision makers, a representative from the Board of County Commissioners and J.C. Connors would get together and try to resolve those issues and put it in finale form. Those discussions have occurred and this agreement reflects the content of those discussions. Both of the issues were in article 5, Compensation, Invoicing and Fees. The first issue was that Ms. Call did not have authority to move off of an automatic 3% increase in the MTC housing rate if we were unable to negotiate a new housing rate. We were objecting to that because essentially that kind of a provision with an automatic increase, that sets the floor. That language has been modified in the third paragraph of paragraph A, MTC per diem rates and the 3% automatic increase has been removed. The provision now states that if we renegotiate an increase with a user agency, then the per diem rate will be

renegotiated by MTC and the County. We put a ceiling on the County housing rate which will never exceed the lowest offender per diem rate that the facility offers. On page 20 of 37 under County Fee, paragraph 2. The provision reads, if the per diem rate paid by user agencies is increased, the county fee shall be increased proportionally. If the per diem rate paid by user agencies is decreased, the county fee shall be decreased proportionally. Mr. Bryant took the position that we should not be limited to increases in the gross per diem rates paid by the user agencies, because the county fee is a pass through cost to MTC. If we were able to negotiate a raise in the county fee with a user agency as we negotiate that contract through the U.S. Marshall's Office, we ought to be able to increase the fee whether or not the gross per diem rate by the user agency is increased or not. This language allows me to have that latitude, because it doesn't limit me to increases in the gross per diem rate. I think I am free to go to a user agency, increase my county fee and their per diem rate, and have that rate passed through to us from the trustee with this language as it is. Commissioner McGinn stated that in one of the discussions the rates could be at a rate of \$70.00 a day for the new 1,000 bed facility. That would adjust the \$1.50 for the County as well. Commissioner Moore would like to commend Commissioner McGinn who consummated this negotiation. Commissioner Moore stated that at some point we will need to consolidate both of these agreements, so that we recognize all of the facilities in Chaparral as the same. Commissioner Moore stated that on page 24 paragraph 1, we are deleting the reference at the end of the sentence in brackets (41 U.S.C.A. 351). Is this language appropriate without this reference? Mr. Bryant stated that we are not deleting the whole enclosure, there was an extra period that is being deleted. On page 29 the New Mexico Public Records Act is the insertion and we are deleting IPRA. Commissioner Moore thought that IPRA was a Federal set of rules and we are going to replace it with New Mexico Public Records Act. Mr. Bryant stated that this is appropriate. On page 35 of 37 the

names are incorrect on the signature page. Odie Washington is no longer there as Vice President of Corrections, Michael Nivison is not Chairman and the County Clerk's name needs to be changed.

**4. Elected Officials, Department Heads, Committee Reports:**

a. Sheriff Blansett request approval to convert the Old Road Shop, located at 409 Fairgrounds Road.

Sheriff Blansett stated that the fence is up and the Road Department is going to put up the fences which will save us some money. There is \$28,000 left in the fund and it is our intent to install the alarm system and start working on some ADA issues in the building. Sheriff Blansett is requesting the Commission go ahead to start using the building. Commissioner Moore stated that when we talked about this in the past we talked about getting an inspection from the City Building Officials to make sure the building was code compliant, get some kind of occupancy lode and look to see if there was any asbestos. Have these inspections been done and signed off by the City? Paul Quairoli stated that the City has not signed off. They don't have jurisdiction and an inspector would have to come from the state. The state would not be able to come down for at least a month. Mr. Quairoli went through the building as the County Fire Inspector with the city officials at the same time. The building is not ADA compliant. The bathrooms that are there are too small. The electrical inspector said that if we don't change the inside, keeping it garages and office space there will be no electrical issues. Commissioner Moore stated that there was a reason why we moved out of the building in the first place. It was run down, too small, and several safety issues, when it was the road shop. We need an asbestos survey to have an all clear, before anyone moves into the building.

b. Request final plat approval for Elk Springs Estates Subdivision. This subdivision is located approximately 16 miles west of Mayhill and approximately 3 miles east of Cloudcroft.

Diane Romo, Planning Coordinator, stated that the preliminary plat was approved in December and the final will be coming before the Board. The preliminary had challenges with the water and was debated heavily.

c. Request preliminary plat approval for Riata Estates #2 Subdivision. This subdivision is located approximately six miles south of Tularosa via Highway 70 and approximately ten miles north of Alamogordo.

d. Request preliminary plat approval for Rancho Encantado Estates Subdivision. This subdivision is located approximately 12 miles south of Alamogordo.

**5. Public Hearing:**

a. Consider amending Section 9.2 dealing with annual leave accrual of the Otero County Personnel Policy Ordinance #98-01 as amended by Ordinance #07-01.

Donna Brandon, Financial Director, stated that we have had some discussion with the elected officials and department heads to discuss this issue. In order for a 12 hour worker to accrue 12 days a year, he would be accruing 50 percent more leave than the 8 hour worker. The 10 hour workers are also affected, because a 10 hour day is 25 percent longer than an 8 hour day. The bottom line of the accrual on this new system amounts to about 4,000 additional hours accrued per year. The fiscal impact is \$56,000. Commissioner Moore stated that we have discussed this issue at great length while going through the Personnel Policy and chose the words that we have. We discussed this issue one other time since then. Commissioner Nivison stated that we need to contact the Municipal League, that is what they are there for. Bill Parker, Public Works Director, stated that if a worker works 5 percent more hours a year, then they deserve 5 percent more annual leave not 50 percent. John Blansett, Sheriff, stated that he was on the original committee defining what a day was. The way it will effect my

department and Detention is that we will have people gone more than they are there. It will create a horrible staffing problem. Tony Rogers, Maintenance Supervisor, agrees with the Sheriff. Virginia Blansett, Detention, stated that if I have 2 people come to Detention for employment and they have the exact same experience and I have a 12 hour and 8 hour shift available, both those people will want the 12 hour shift. The 12 hour shift accrues more annual leave, but I can't have all 12 hour employees. This does cause some staffing problems.

**6. Citizen Communications:**

a. Dr. Cheri Jimeno-Discuss the G.O. Bond Election for NMSU-A on April 1, 2008

b. Jake Meyer-Consider partnership with Children in Need of Services (CHINS) to apply for state capital outlay funding for the Pre K program operating at the Full House Child Development Center.

Mr. Meyer stated that CYFD will be allocating up to two million dollars to applicants for Pre K. We currently have a Pre K program in place that serves 20 in the morning and 20 in the afternoon at Full House Child Center. We have purchased a portable building, which will become our Pre K classroom which will allow us to have 80 children. We can't directly apply for this money. It has to be a governmental entity that has entered into a formal agreement with a current Pre K provider. Commissioner Nivison asked if we have to own the building in order to apply for the money. Ms. Brandon stated that in her mind it is legislative money, so yes it would be just like the Red Brick. Commissioner Moore stated that his understanding this program is not through legislative grants, it is a Children's Youth and Families Division Branch of State Government. It is a specific fund to provide services to Pre K kids. CHINS wants to access the funding stream in order to provide these services to these children. A portion of the money will go towards purchasing a portable building and a portion for

services rendered to the Pre K children. His understanding of what's required is a government to government transfer. It would require us to put CHINS under contract as a services provider in order for us to flow the money to them, but he doesn't believe that we have to own the real estate.

Dan Bryant stated that there are 2 issues. One issue is can we do a service contract with the CHINS Program to provide services and compensate them for the service contract. The answer is yes. The second issue is the portable building. We can be the fiscal agent and purchase with grant funding, a portable building. Mr. Meyer stated that the building has already been purchased. Commissioner Moore stated that Mr. Meyer found this money. It will provide a resource to the young children in this community. If there is some way that we can advance then, I want to direct staff to do that.

Commissioner McGinn stated that she keeps hearing CYFD, but doesn't see that on the agenda report only state capital outlay funding. Is this available to people who are private care givers for Pre K services as well? Mr. Meyer stated that it is only available to government entities. Commissioner Moore stated that if there is any way the County can help with this program, we will do all we can.

**7. Executive Session:**

Commissioner Moore made a motion to go into Executive Session to discuss item B. pending and threatening litigation, environment issues and detention issues, C. personnel, County Manager applications and schedule interviews, D. land and F. Detention Center. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Nivison	yes
Commissioner Moore	yes

Commissioner Moore made a motion to come out of Executive Session having discussed items B. pending and threatening litigation, C. personnel, final review of Managers applications, D. land, F. Detention Center, having made no decisions. The motion was seconded by Commissioner McGinn.

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 12:03 p.m.

APPROVED:

\_\_\_\_\_  
Doug Moore, Chairman

ATTEST:

\_\_\_\_\_  
Robyn Holmes, County Clerk

Work Session Mar. 12, 2008