

Special Meeting

March 22, 2002

The Board of County Commissioners, in and for the County of Otero, State of New Mexico, met in a Special Meeting at the Otero County Courthouse in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 1:00 PM, March 22, 2002; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News, Holloman Sunburst, Mountain Monthly, and to Radio Stations KPSA, KINN, and KYEE.

Those being present:

Richard Zierlein	Chairman
Tim McGinn	Vice-Chairman
Michael Nivison	Member
Ruth Hooser	County Manager
Dan Bryant	County Attorney
Ray Backstrom	Administrative Office Manager
LaDonna Adams	Department Assistant
Robyn Silva	Deputy Clerk

The Chairman called the meeting to order and gave the invocation.

Commissioner Nivison led those assembled in the Pledge of Allegiance.

1. Discussion was held on Item A of the Consent Agenda, concerning the awarding of Sealed Bid # 02-016 for the rescue truck for the Oro Vista Volunteer Fire Department. Mr. Bryant stated that his recommendation to the Commission is to reject all bids and go out for bid again. Chief Muller of the Oro Vista VPD stated that he received two bids for this rescue truck. One bid was for \$110,000 and it was

a low quality bid. The other company came in at \$128,000 and is a well known company to the State of New Mexico with a good reputation. Mr. Muller stated that he has done everything by the County guidelines and he will just go ahead and accept the low bid.

Mr. Bryant stated that at the last meeting, Mr. Muller brought up three concerns with the company that has the low bid. The first one was of quality control and lack of detail and staff experience. His second concern is that there is a large turn over with the staff. Mr. Muller's third concern was the difficulty in obtaining warranty work. Mr. Bryant stated that he requested, at that meeting, that the Commission table the awarding of this bid so that he would have an opportunity to check the references. He stated that he has done the review and talked to the Purchasing Agent and his conclusion is to reject all bids, and go back out and fine tune the specifications. Specifically, when and how, and the response time on the warranty work. Mr. Bryant further stated that he thought that he and Mr. Mueller had reached an agreement to that effect, but apparently not. He stated that he has concerns with going through with this the way it stands.

Commissioner Nivison stated that he thinks that Procurement has the ability to set down with the bidder and ask questions. He stated that while there is a gray area, we should not accept or deny any bids until we know for sure.

Mr. Muller stated that he had a conversation with the company with the low bid, Taylor Made, today and that they stated that their electricians are licensed and their welders are certified. He stated that if we could see those documents, he would accept their bid.

Commissioner Nivison made a motion to award Sealed Bid #02-016 to the low bidder, subject to negotiation on the above mentioned three items, contingent on the Chairman's satisfaction. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. SEE BOOK 108 PAGES

2. Commissioner Nivison made a motion to approve items B, C, and D on the Agenda. Commissioner McGinn seconded the motion. Discussion was held. Commissioner McGinn questioned Item C concerning the wording. Ms Adams stated that she took the wording directly off of the agreement from Lea County. The Commission agreed that it is okay.

Mrs. Millie Kenyon questioned if this agreement referred to the prisoners from Lea County being housed in Otero County or the prisoners from Otero County being housed in Lea County. Commissioner Zierlein stated that the agreement is worded so that either County can house prisoners in either County if needed. He stated that we have to have an agreement in place prior to utilizing it. A vote was taken and the motion passed unanimously. SEE BOOK 108 PAGES

3. Discussion was held on Item E concerning the adoption of a resolution approving certain documents relating to lease/purchase financing of a prison facility to be constructed in Southern Otero County. Mr. Terry Bendricksen and Mike Harling were present for the discussion. Mr. Bryant stated that this resolution is for the operation management and maintenance agreement. He stated that we have to have this approved so that it can go through housing and be ready to close by the eleventh. Mr. Bryant stated that he wants to discuss the operating agreement. He stated that MTC is the company that is currently managing the Santa

Fe and McKinley County facilities. The proposed contract that we are attempting to enter into, must be approved by the Board of County Commissioners and by the Department of Finance and Authority. The way this is set up, it will be designed, financed and constructed by around December of 2003. Mr. Bendricksen stated that possibly it may be completed by June of 2003. The financing documents in the revenue bond provide for a trustee that will maintain the fund account. This agreement will provide for a contract monitor. The final element is the day to day operations. The proposal is that we will operate under ACA standards. In the proposal, the County will receive a fee of 50 cents per inmate per day after the facility reaches 75 percent occupancy. This fee will continue to be paid whether or not that number of inmates fluctuates from the 75 percent. That percentage is based on 500 beds. Those fees are designed to cover the fees for county law enforcement and the contract monitor. This job will initially be done by the county manager. Once we reach the 75 percent rate, we will have to hire someone for the position. The County actually will pay the contract monitor but will be funded by the 50 cents per inmate per day. This position will be housed by the County.

Commissioner Nivison stated that he has contacted McKinley County, and with this vender, they have been overwhelmingly happy. Mr. Bryant further discussed the contract.

Ms Kenyon questioned if there were provisions to train employees from Otero County. Mr. Bryant stated that the company is required to advertise job openings and purchases in the Alamogordo area.

Ms Kenyon also questioned who is responsible if there is an escapee.

Mr. Bryant stated that the operational agreement provides that they will have a specially trained swat team. There are a number of agreements for cooperation and to coordinate the Sheriff and MTC. If there is an escape, and it is the fault of MTC, they will be responsible. This is covered in the operational agreement. If the negligence lies at the feet of the County, then they will be responsible. Mr. Bryant stated that there will be mandatory joint training with Otero County Detention and MTC. The contract has a provision that, before they can go to work for the facility, they have to complete 40 hours of training.

Mr. Muller questioned if the jail will produce taxes for the County? Mr. Bryant stated that it will and it will increase the gross receipt taxes and also operational and construction taxes as well.

Mr. Dyer wants to know how many staff members will be employed by the facility. There will be 120 employees employed.

4. Commissioner Nivison made a motion to go into Executive Session for the purpose of discussing pending litigation on the advice of the Attorney, Mr. Bryant to negotiate the contract. There will be no decisions made. Commissioner McGinn seconded the motion. Roll call was taken as follows:

Commissioner Zierlein - I

Commissioner McGinn - I

Commissioner Nivison - I

Commissioner Nivison amended his motion into Executive Session to state that they will only discuss contract negotiations and that no decisions will be made. Commissioner McGinn seconded the amendment. Roll call was taken as

follows:

Commissioner Zierlein - I

Commissioner McGinn - I

Commissioner Nivison - I

5. Commissioner Nivison made a motion to return to Regular Session and stated that the only thing discussed was contract negotiations. Commissioner McGinn seconded the motion. Roll call was taken as follows:

Commissioner Zierlein - I

Commissioner Mc Ginn - I

Commissioner Nivison - I

6. Commissioner Nivison made a motion to adopt a Resolution approving certain documents relating to lease/purchase financing of a prison facility to be constructed in Southern Otero County and to allow Mr. Bryant to continue to negotiate the contract and use his discretion and it will be subject to the Chairman's overview. Commissioner Zierlein seconded the motion. Discussion was held. Commissioner McGinn stated that he wants to have a final meeting to go over the final details prior to the Chairman signing anything. He stated that he wants to see the document before it is signed. Mr. Bryant stated that he has never finalized a transaction before it is approved by the Commission. Mr. Bryant stated that we are working on a time line and in order to get it through the state agencies by next week, we need to approve it soon. Commissioner Nivison stated that he has the utmost confidence in the staff that they will act in the best interest of the County. Mr. Bryant will do the work and the Chairman will approve it after consultation. Commissioner

McGinn wants to know that if he doesn't agree with it, it shouldn't be signed. A vote was taken and the motion passed unanimously. SEE BOOK 108 PAGES

7. The Commission considered an Emergency Declaration to be put in effect immediately concerning Ordinance No. 01-01, for the federal prison facility in Southern New Mexico. Mr. Bryant stated that under the NM Statue an ordinance is not effective until 30 days after it has been recorded in the County Clerks Office. He stated that he failed to record this Ordinance after it's approval on July 24, 2001. He stated that the Commission can declare an emergency so that it will be in effect before April 11.

Commissioner Nivison made a motion to put into effect an Emergency Declaration immediately concerning Ordinance No. 01-01. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. SEE BOOK 108 PAGES

8. Commissioner Nivison made a motion to adopt Resolution No. 02-21-02/91 43. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. SEE BOOK 108 PAGES

The time being 2:45 PM, the Chairman recessed the meeting.

Chairman

ATTEST:

Otero County Clerk

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