

**Regular Meeting**

**May 29, 2007**

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 Vice-Chairperson at 6:00 p.m., May 29, 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

Absent

Clarissa McGinn

Vice-Chair person

Michael Nivison

Member

Dr. Martin Moore

County Manager

Angie Schneider-Cook

County Attorney

Ray Backstrom

Assistant County Manager

Pamela Heltner

Commission Liaison

Bill Lee Parker

Public Works Director

Lynn Estrada

Deputy Clerk

**DRAFT**

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

Commissioner McGinn called the meeting to order at 6:00 p.m. and recessed the meeting until there was a quorum.

The time being 6:05 p.m., Commissioner Nivison arrived and the Chairperson called the

**2. Citizen Communications:**

Terry Muller approached the Board to ask for assistance on how to get on the ICIP Program. The Oro Vista Fire Station is falling down around the equipment. Mr. Muller doesn't know anything else to do but build a new station. The ICIP process will begin in August and the approved list will be sent to the state sometime that month. Ray Backstrom will get together with Mr. Muller and get him started on the process of the ICIP Program.

**3. Commission Discussions/Correspondence:**

Commissioner Nivison gave a brief report on his trip to Washington D. C. We had some very good meetings with the Secretary of Interior about the Loopers that are eating the forest up, but we also addressed some other issues on the Lincoln National Forest. Commissioner Nivison stated that he had very positive feelings from these meetings. He will also be meeting with the local Forest Service this week to address some problems.

**4. ~~Unscheduled Citizen Communications:~~**

Donald Homan, a Chaparral, New Mexico resident, stated on the agenda for the last Commission Meeting, item 14 was an agreement with the Colquitt Company to chip seal 2.8 miles of Angelina Blvd. This project has been completed. In Chaparral there are many road problems. There are very large pot holes and we haven't had any maintenance done in years. Bill Parker stated that his foreman told him about the large potholes within Chaparral. Mr. Parker stated that he had planned on being in Chaparral next week to fix the holes.

**5. Public Hearings:**

The time being 6:30 p.m., the Chairperson called the Public Hearing to order for approval of the preliminary plat for Creekside Estates Subdivision Unit 1.

Commissioner McGinn called the Public Hearing to order on the creation of a Wildlife Management Criteria Ordinance. Commissioner McGinn recessed the Public Hearing until the conclusion of the Public Hearing for the Creekside Estates Subdivision.

Commissioner McGinn stated that last August in a Special Hearing a consideration for approving the preliminary plat on the Creekside Estates due to some discussion in the Planning Commission Meetings, it was brought back to us in April of this year and we sent it back to the Planning Commission to review for preliminary approval. The Planning Commission last met on May 22 and approved the preliminary plat with some conditions. Hans Steinhoff stated that this information is correct and now all the conditions have been met. The current preliminary plat has been changed from when it was brought before the Commission in August. Klad Zimmerle stated that emergency vehicle turnarounds have been added. Mr. Steinhoff stated that the Village of Tularosa had no recommendations for this subdivision and everything was legal. Commissioner McGinn stated that back in August of 2006, they had a particular Ordinance in relation to their water and water control. Mr. Zimmerle stated that the Mayor did request that we include Chapter 52, which is their ordinance that controls the creek which is their water source. We have a special map with the setbacks of the lots and that defines the septic.

Commissioner Nivison made a motion to approve the preliminary plat for Creekside Estates Subdivision Unit 1. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

Commissioner McGinn closed the Public Hearing for Creekside Estates Subdivision and opened the Public Hearing for a creation of a Wildlife Management Criteria Ordinance focusing on introduced wildlife species.

Commissioner McGinn stated that the Commission is in support of creating an ordinance that will address wildlife management issues for the people of Otero County. Tonight will be one of many public hearings in developing a draft ordinance to address the wildlife issues. We would like to hear comments from the people hear tonight on how this ordinance can be crafted, and what kind of issues you would like the Commission to address in creating this ordinance.

Chris Turri stated that it seems like the hunters get pitted against the ranchers. You hear that ranching is a dying breed. I don't want to hear that. Ranching is not a dying breed. That is what made the southwest and they have as much right to the land as the elk do. The problem lies with the Forest Service and their mismanagement of the forest and allowing the forest to decay right before our eyes. With the drought and the bugs, the Forest Service is causing the problems, not fixing the problems. The Forest Service pits ranchers against the hunters all the time and they sit back and say there is nothing we can do about it. Mr. Turri asked Commissioner Nivison if the Endangered Species Act had a sunset clause or is it truly an act that still exists. Commissioner Nivison stated that it still exists.

Implementation by the agencies itself, all those that were on the list to begin with, unless they have been de-listed or added, that's the only changes that have been made to the list. Commissioner Nivison has heard for several years that it had been sunset, but as long as the state doesn't take it away, it stays in existence. Mr. Turri stated that he didn't think that any hunter wants to take any rancher's lively hood and generations and generations of their lively hood away. It's not the agenda for the sportsman to do that. But for the County to come in, I don't think you guys are experts in managing wildlife. The sportsman spend a lot of money at the Game and Fish Department for our tags. We are the ones that are paying all the time to make sure the game is managed. I don't think you guys have the authority or the expertise to come in and manage the game and take it away from the Game & Fish Department.

Commissioner Nivison stated that not many counties are in the science business. We found out by going to court that we lost because we didn't have science. The best science will prevail in court. The Land Grant Universities of New Mexico were set up to provide science for the people of New Mexico and the counties. We possess some 35 years, through the Range Improvement Task Force. We do believe that the health, safety and welfare of the forest are at risk. Mr. Turri would like to know how much money the hunters bring into the community and how much the ranchers bring into the community. Commissioner Nivison stated that he can't give Mr. Turri an exact answer at the moment but we do have that information from the Range and Task Force. Commissioner Nivison will get this information to Mr. Turri. Commissioner McGinn stated that we have passed resolutions in the past that say we want to see some issues resolved that are effecting all industries that support the economy of Otero County. What we are trying to do with this ordinance is address several issues, including elk, including other species of wildlife that say the people of Otero County need something beyond how it's been managed in the past. Have their County Commission step up and create an ordinance that has some enforcement to it to address these issues. Mr. Turri stated that the County has a challenge before them, but the bottom line is the management of the forest. Commissioner Nivison stated that our main goal here is to maintain our resource. Our desire is to fix this and it will take everyone here tonight and everybody in Congress. Commissioner Nivison stated that the bottom line is whoever has the best science. We are going to do this based on the best science.

Dr. Martin Moore stated that what would be helpful to the attorney, would be to include specific damage to property and resources.

Hans Steinhoff stated that the laws in New Mexico say that if you want to keep animals off your property, the land owner has to build a fence around his property. To keep cows out, it typically takes a

4 strand barb wire fence and that is sufficient. When it comes to keeping elk out, you need two solid wire 6 ft. high fences, 6ft. apart, who in the world can pay for that. I would like to see something in the ordinance, if it gets to the point that the elk really damage the property, and the private land owner has to fence his property, that both the State and the Federal Government help pay for such a fence.

Bill Hornback stated that the PLUAC, that used to be in effect for the County, was set up to handle the problems that we are discussing tonight. What are the goals of this ordinance?

Commissioner McGinn stated that the goals of this ordinance are to create a management policy for resources within Otero County, wildlife introduced species in Otero County, and how the citizens of Otero County want this managed for their health, safety and welfare. Commissioner Nivison cited a New Mexico Statute that specifies even federal land within the county is subject to a county ordinance. Mr. Hornback asked how far do you want to or intend to annotate what damages are, could be, should be? Commissioner McGinn stated that that is where we are headed with the direction of the beginning, which is tonight's public hearing. We will take these comments and background and incorporate it into an enforcement provision within our ordinance. When these agencies have this practice or operations in place and does not meet the expectations of the people of Otero County, here's how the County is going to proceed.

Tim Turri stated that he operates a small outfitting business in unit 34. We primarily provide big game hunting opportunities for clients in unit 34. This is primarily elk hunts. He represents a relatively large sportsman group here in Southern New Mexico. He has worked on unit 34 elk issues for probably the last ten years with the gentlemen that are in the room tonight. We have had meeting after meeting and worked with the Forest Service and Game & Fish Department. Obviously the elk issue is a big area of contention with the cattle growers and the sportsman and everyone else that uses

the public land up there. We certainly don't advocate that we would like to see the cattle industry go away. They have been there for over a hundred years. What we would like to do is find some better balance. Obviously being in the outfitting business and being an avid sportsman, we certainly have a vested interest in maintaining a quality elk herd. Unit 34 obviously is known for one of the better quality elk herds in the whole country. There is a huge demand for those hunts. Obviously, that's why in the outfitting business we can potentially do quite well up here. I think that over the years working on this issue there are some perceptions out there that the Game & Fish Department is doing nothing as far as the elk issue is concerned. I would have to argue that, being engaged in this issue for several years. They have done a lot of good things and they have done a lot of things that have been a big disappointment for the sportsman industry. They have increased permits on several different hunting seasons. They spend hundreds of thousands of dollars of sportsman's money through licensing to inventory that elk herd and try to keep some sense of what those numbers are. Everybody will argue if that is accurate data. Talking about scientific data, it's obviously the best models and the best data that they have in the nation for doing those kinds of monitoring methods. My concern as a sportsman is to implement some kind of County ordinance, where would that go and how far would that ordinance go? Obviously, the County is not qualified to handle wildlife and so if the Commission has the authority to dictate what those wildlife numbers should look like, how would that impact our industry. This is definitely some concerns we would have from a sportsman and hunting industry. It's not a secret that hunting for Otero County brings in hundreds of thousands of dollars annually. It's not just the elk hunting. It is also tourism that wants to see wildlife on the ground. That's part of their tourism experience here in Otero County. There has been a lot of talk about within this ordinance, some type of compensation mechanism to compensate the allotment owners that are being impacted on the

allotments they own with reduced cattle grazing numbers. I think we would have to be very conscientious about how you would propose any kind of compensation. Obviously, the sportsman would not be willing to compensate through the Game & Fish Department, who is funded by the sportsman. If the elk herd was reduced under County management, or even the Game & Fish Department, where it impacted our business, are we going to be entitled to some level of compensation through whatever process could possibly develop for that? Or would the local taxidermy, who would be impacted by this, is he going to be qualified for compensation or local sporting goods stores. If you are going to talk about compensation then a., where is it going to come from and b., and who will be entitled to that compensation? I think that obviously there is an issue up in the forest and I think the one thing that the cattle growers and the sportsman can agree on, is that the most contributing factor that we have is lack of management of the forest and the resources that are available up there. I don't know where that blame lies. I don't know if it's your local foresters, my guess is no. They operate in a very bureaucratic atmosphere. They have court orders that they have to follow, and endangered species acts that they have to be in compliance with. I say to some degree, their hands are tied. But I think to continually hash this issue, fighting about if there should be more cattle or wildlife, try to find where that balance should be. I think our efforts would be better focused on how can we help the Forest Service do a better job of managing the resources up there. Then we wouldn't have this issue at hand and we could have more cattle grazing, wildlife and hunting opportunities. How do we improve the health of the forest? I know you guys are addressing some of those issues, but to put all the blame on the local Forest Service is unfair. I think it's a much bigger issue than that. I would caution you in how this ordinance is developed, that not any one group that utilizes the resources up there, are significantly impacted because of one reason or another.

Rick Lessentine, President of the Lincoln National Forest Allotment Owners Association, stated that Mr. Turri brought up some issues that our organization definitely has problems with. We have a problem with the Game Department acknowledging any rights that we have up there. They refuse to acknowledge the Federal Acts that gave us the forage rights back in the 1860's and also one in the 1890's. They refuse to acknowledge the fact that we own the water. These water rights were filed back in the 1880's. We are all suffering from allotment losses, hauling water for the cows, and the elk are drinking the water too and tearing down fences and we aren't getting anything for this. Even though we own the forage and the water, we aren't compensated at all. All I ask of the Game Department is that they compensate us with some permits to allow for our losses of allotments, hauling water and rebuilding fences. Mr. Lessentine finally received an answer from the Game Department last week. They told him that they couldn't compensate us with permits on the allotment, due to the anti donation clause. If we own the forage and the water, this is a service that we are providing for them, it is not a donation. We are taking care of their elk, the Game Department doesn't take care of them. Most of the people in our organization have a problem with the fact that the Game Department refuses to acknowledge any of our rights and not compensate us for any of our losses.

Joe Delk, who lives in Las Cruces, would like to address some problems that are happening in the Gila National Forest. There is a wolf introduction program going on in the Gila National Forest. They were originally released in Arizona and have migrated into New Mexico. The Fish and Game Department is initiating a NEPA process to examine what they need to do regarding the boundaries on the Blue Range wolf recovery area. They have over 300 hundred wolves in captivity, ready to go somewhere. The NEPA process is beginning right now. They have already started the scoping process. Scoping meetings will be held in areas around the state. One of the scheduled meetings in this area is

Alamogordo, New Mexico. I wonder why they picked Alamogordo. Livestock depredations in the Gila's is amazing. They are going on weekly. The wolves are camped out on the ranches because there is no prey base in the Gila. The deer are gone, the elk are gone. I know this is contrary to what's going on in the Lincoln, but if the wolf is introduced in the Lincoln, you won't have an elk problem.

Charles Walker, a rancher in this county, commends this Commission for attempting this ordinance. Mr. Walker appreciates the cooperation from the sportsman, we will work with them in any way that we can.

Bebo Lee stated that he would like to see the Commission get in the NEPA process on the wolf. Mr. Lee would like to address the Oryx. The Oryx were introduced in the White Sands and they moved over into the McGregor Range and they are starting to move down on Otero Mesa. The BLM and McGregor Range, have both requested the Game Department to dramatically reduce the number of the Oryx. There has not been a whole lot of success in this right now. I would like to see in this ordinance, the Oryx as an introduced species, that Otero County preferably not allow except on White Sands.

Commissioner McGinn stated that we have extended an invitation to other agencies, which are present tonight. Commissioner McGinn asked if any of those agencies present would like to make a comment in this public hearing tonight. None of the agencies present wished to make a comment.

Commissioner Nivison thanked everyone for coming tonight and giving their ideas and input for the creation of this ordinance.

Commissioner McGinn closed the Public Hearing and returned to Regular Session.

