

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 9:00 a.m., June 20, 2006; 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-Chair person
Michael Nivison	Member
Dr. Martin Moore	County Manager
Ray Backstrom	Assistant County Manager
Dan Bryant	County Attorney
Pamela Heltner	Department Secretary
Bill Lee Parker	Road Superintendent
Lynn Estrada	Deputy Clerk

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

Commissioner McGinn made a motion to move items 18 and 19 under Public Hearings to the beginning of the agenda. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

1. Public Hearing:

a. Brenda Garcia, request approval of naming the road located in Section 1, T16s, R9E, in the La Luz Fire district to Old Mill Road.

Brenda Garcia, Rural Addressor, approached the Board with the request to name this road Old Mill Road. State Wide Drilling would like to give this road a name.

b. Dale Palkki, County Assessor, request approval of a request by Mr. & Mrs. Lee Johnson to vacate Lot 14 of Cooper Subdivision and relocate an easement within the vacated lot.

Dale stated that this matter had gone before the Planning Commission and decided to give this issue to the County Commissioners, as they did not want to make any decision on this matter.

Mrs. Tyler and her attorney, Gerald Lindley, gave an account of the origin of the existing easement.

Mrs. Tyler stated that she has an easement of record and necessity. Mr. Lindley stated that Mrs. Tyler is the owner of the dominant estate and is objecting to moving this easement. In moving this easement they believe it would create a dogleg.

Tracy and Lee Johnson stated that the 20 foot easement separates their property and after research believes this is a public right-of-way and not Mrs. Tyler's easement. Mr. Johnson stated that the 50 ft easement would benefit all the property owners in this area and no one would be landlocked.

Betty Wood gave a brief history of the easement in question. She doesn't think it's fair that the Commission could make a decision to relocate this easement. Commissioner Moore stated that we can't make any decisions today, only gather facts. Dan Bryant will have all the information on the easement in question for the Tuesday nights Commission Meeting.

2. Consent Agenda:

a. Approval of Minutes

b. Bills Lists #51, #52, #53

- c. Health Care Services, Sole Provider monthly report for June 2006.
- d. Personnel-New hires and contract renewals.

3. Purchasing:

- a. Contract for 3 vendors for the electrician services county wide. The vendors are Rentschler Electric, Becco, Inc. and Kenn's Electric.
- b. Contract renewal for county legal services between Daniel A. Bryant, P.A. and Otero County.

4. Resolutions, Contracts & Agreements:

- a. Resolution No. 06-27-06/94-82 adopting a formal policy amending the spending and expenditure authority for the County administrator to match the new purchasing limits established in the State Procurement Code.
- b. Resolution No. 06-27-06/94-86 for budget increase for various County Departments.
- c. Resolution No. 06-27-06/94-87 for budget increase of the Legislative Grant Fund.
- d. Resolution No. 06-27-06/94-88 for budget increase for Property Assessments.
- e. Agreement between Otero County DWI Program and Otero County for the use of the building and parking lot located at 1013 New York Ave.
- f. Grant Agreement to construct a medical clinic in Chaparral, NM.
- g. Agreement for Solid Waste Collections Services between the County of Otero and The Lincoln County Solid Waste Authority.

Dan Bryant explained the changes that were made in the agreement. On page 7 paragraph 13, inserted the language that says, neither we nor the Solid Waste Authority waive any rights we have under the Tort Claims Act by entering into this agreement. Under paragraph 14 we have changed the basis and method of payment. In the past the payment was set up as a quarterly payment, payable in

advance. We changed that to a monthly payment, payable at the end of the month. That fee will be 1/12th of the \$600,000.00 fee that is expressed here. Page 8 paragraph 16, we fixed the non-exclusive rights. Paragraph 18 we adjusted the language to make it clear that the County would have a seat on the Authority Board in an ex-officio capacity and can participate in all deliberations. Commissioner Moore stated that we would be a non voting member. Dan stated that is correct. We don't need a voting position on the Authority Board because in paragraph 12 we adjusted the language to have absolute authority to veto any rate hike. We have agreed to consider these hikes in a timely matter.

Tony Rogers, Maintenance Coordinator, stated that we are so close in cleaning up the Convenience Center and having it make money. If it's manned and equipped properly it will pay for its self. Mr. Rogers is very against letting Lincoln County take over.

Commissioner Moore asked Donna how much we supplement General Fund for the Convenience Center. Donna stated that right now projected for next year, General Fund will supplement the Environmental Fund \$200,000. If she understands the agreement correctly, General Fund will have to supply an additional \$180,000. The burden on General Fund will go from \$200,000 to \$380,000. The whole budget for the Convenience Center in this upcoming budget cycle is \$734,000. Commissioner Moore is looking at the agreement that says \$600,000, turn key, plus we pay tipping fees.

Commissioner Moore stated that we budgeted to expend \$734,000. Now we are looking at a contract that is \$600,000 and tipping fees. If these two dynamics are correct we will be spending \$700,000, which is a net saving of \$34,000 if we execute the contract. Donna stated that she believes that we need to sit down and discuss this contract again. Commissioner McGinn stated that Lincoln County Solid Waste Authority obviously isn't going to do this for nothing. There must be some margin of profitability for them. Commissioner Moore stated that he doesn't need to know their monetary

motives, all he needs to know is do they have the ability to execute the contractual agreement at a substantial savings to the County. There seems to be about a \$180,000 00 discrepancy here if the way Commissioner Moore is doing the math is correct. This contract would be a savings to the County and if what Donna is saying is correct they we are off about \$180,000. Commissioner Moore thought he had a better grasp on the situation, so he instructed staff to tell him definitely one way or another, is this contract, based on what we budgeted for the upcoming year, a net savings to the County. Martin Moore, County Manager, stated that he will provide a written statement to the Chairman.

Commissioner Nivison asked have we ever made money on the Convenience Center? His statement to the Commission, have we not always been in trouble with the Environment Department, yes we have. It's time to seek another solution. Nobody has ever been able to run it since he has been a Commissioner.

Commissioner Moore asked Randy Horn, Convenience Center Manager, what his opinion is on the matter. Randy stated that he is mandated to go by the State's Regulations and so far he has been unable to do so. This is the third year he has been trying to get into compliance with the State of New Mexico's Environmental Regulations. We have a mandate right now to correct the problems that we have out there. There are no revenues coming in to fix the problems. Commissioner Moore asked Randy what he thought the reasons were, that he hasn't been able to come into compliance and please be frank. Randy stated we are trying to comply with inadequate staffing and equipment. We have one backhoe for all the different types of work that we do.

Commissioner Moore stated that Randy has done an excellent job with what he had to work with. This contract would be an option to provide you this first year, with additional support being equipment, manpower and management. It brings a proven operation so we can hopefully for once and for all get a

handle on this.

Dan Bryant stated that he is deeply troubled that he is sitting here in a public meeting as the County's lawyer, having spent 60 to 70 days negotiating a contract, then finds out 4 days before we are having it on the agenda that somebody thinks it's going to cost the County \$200,000. Every conversation that he has had with the staff has been, this is the right thing to do, the smart thing to do. Now at the last minute with nobody raising the issue, as your lawyer, I look like an idiot. The agreement has been drafted, I am proposing it to you and recommending approval of it and now I am told that it's going to cost \$200,000 more a year than what you are currently spending. It's a little embarrassing for this to surface this way, when every number that he has looked at tells him this was a cost savings measure for the County and it was a way to put the program in the hands of somebody who had the expertise to meet those regulations. Dan doesn't see the \$200,000 that is missing nor does Randy. Donna stated that she will be happy to sit down with each and every one of you and show you. Dan stated this should have been done 60 days ago. Donna stated that the only financial input that she has had in the financial end of this was unsolicited at best and she is not convinced that her information was relayed.

Commissioner Moore stated that we have directed staff to research whether we are going to save money with this contract or not.

5. Elected Officials, Department Heads, Committee Reports:

- a. Request approval of Fire Ban Resolution No. 01-10-96/94-46 with amendments.

Paul Quairoli, stated that the only change that was made was to take fireworks out. The fireworks season ends July 6th.

- b. Jay Frost-request approval to raise the yearly fees at the Sidney Paul Gordon Shooting Range as follows: Family Pass to \$52.00, Individual Pass to \$38.00 and the Law Enforcement Family Pass to

\$30.00.

c. Bill Lee Parker-Request approval of a Co-op chip-seal between Otero County and La Luz Canyon residents.

Bill Lee stated we have one mile of chip for our project. The residents that live past this would like to extend it another 2/10th and will pay for the materials and the Road Department will furnish the labor.

6. UnCitizen Communications:

a. The Regan Brothers approached the Board to discuss the road over in Dell City. We have been to the meetings for almost a year. There is a lot of talk going on, but really nothing is being done. I am here just wondering what is going on. Are we going to get the road or not? Commissioner McGinn stated that she is under the understanding that the Regan's have met with the Martin Moore, the County Manager and Bill Parker, Road Superintendent, and all went together to the road. What was the results of that trip? We did find a road over there if you want to travel horse and buggy style. It's about 11 miles long. It's a single lane if you are lucky. It is supposedly a County Road. Commissioner Nivison stated that for his understanding, this road that was found is not a County Road. Mr. Regan said that it is on the map. Commissioner Nivison stated that the one that was pointed out at the meeting that you had, that you would like to travel on is not the one that is on the map and it's not a County Road. GOO8 is a County Road that goes down right through our property. It is on the map. Bill, could you shed some light on that. Bill stated that we did make it over to GOO8, which is on the County map. But as it travels south, you do leave County road because you go into Texas. We came back in, it was a road all the way through, but when we came in through we were just inside the Texas line. So I know that part is not on the County map. That was the best part of the road on the Texas line, inside Texas. Where we got off GOO8 on to this road, I'm really not to sure where it changed roads, but

GOO8 did run into this road and we came out on the Texas line. Commissioner Nivison stated that it was my understanding that when you got to their fence, the road that was in question was here, there was remnants of a old County Road over here. It's not a road that we have ever maintained. Bill said no. GOO8 as far as Bill knows has never been maintained by the County. Mr. Regan said that G008, when his father purchased that in 1957, he put in for a request for a road. He received a letter back from the County telling him that if he built the road to County specifications they would maintain it. The only thing that I can go by is the numbers on the map. I just know that it's supposed to be a County maintained road. Commissioner McGinn asked would there be named or numbered roads on any County map that aren't County? Bill stated that could be possible. Mr. Regan stated that he isn't criticizing anybody now. Commissioner McGinn stated that it's something that happened decades ago and we are coming back to it. Mr. Regan stated that when he took possession of the property the taxes went up 300.00 and something dollars when it had only been 3.00 dollars. Of course, I complained about that and we finally got it down to about 100.00 dollars. Commissioner McGinn asked Mr. Regan, if there is any other access to your property other than G008. Mr. Regan stated that there used to be 2 or 3 accesses there. There used to more up the way there, but every time I went over there the gates would be locked and I couldn't get in. I complained to the Sheriff about it and he sent a man over there, well he came back, no complaints the gates weren't locked. There have been lots of changes over there since we got possession of the property. Commissioner Moore asked Mr. Regan, what is it you fellows want us to do? Mr. Regan stated that he just wants a way to get into the property. Commissioner Nivison stated that you want us to build a road through your property. You already have an existing road, it's just a long way around right. Sir, you can take your vehicle over there and I'll drive with you, and you tell me if it's a County road and I'll accept it as a County road. Commissioner Nivison stated

that if it's not a County road and you bring it up to County standards then we will approve it for maintenance. That's usually how it works. Mr. Regan asked then why does the road exist on any map you pick up. Commissioner Moore stated that his understanding of this road is that this road was given to us by the Army. We have had this discussion before. This road was given to us by the Army, they used it, and I don't know since then if it's ever been used as a road. Now I haven't been out there to look at the road but I have seen pictures and clearly G008 has not been used for many decades. Mr. Regan will swear to that. Commissioner Moore said for many decades G008 has not been a traveled way, we went out there to discuss this. There is another individual that has a road that is an adjacent property owner to you guys. We had some discussion about getting in touch with him, because that's the easiest way and the shortest route for you fellows to take to get to your property. Visit with him about using his private road to access your property. What you guys have expressed to us in the past is all you care about is being able to get there. Mr. Regan said that is right. Commissioner Moore asked if they have had any success in getting hold of the neighbor. Mr. Regan stated that Dr. Moore was supposed to do that, he said that he was going to get with his secretary and Bill Lee. Commissioner Moore asked how long has that been? Mr. Regan stated that it's been 2 months. Dr. Moore stated that several attempts have been made to try and get a hold of the neighbor and have not been successful. We have left several messages and no response. Commissioner Moore asked do we know if we are getting a hold of the right people here, have we ever spoken to anybody that says yes I know this guy and will have him get back to you. Dr. Moore stated that the best information we can get right now is off of the tax records for the property owners and tracking down the phone numbers from there. Commissioner Moore stated that he thinks he knows the name, it's a business man in Roswell. Have we called his place of business? Bill Lee stated that he doesn't even know if the business still exists.

He has looked Roger Logan Vehicles, I think it's a Ford Dealership, but can't find anything in the phone book. But I did talk to someone that lives on Crow Flats, and they had a Dell City phone book, and they gave me the phone number of that residence. I tried to call the house right there and haven't been able to get any returned messages. Commissioner Moore stated are we going to pursue or at what point are we going to give it up. Dr. Moore stated that Bill and Dan Bryant are working on a letter in relationship to a legal issue of, is it or is it not a County road so that they have a clear answer and our office has a clear answer. But to answer your question, we still about 2 or 3 days ago tried to get a hold of this person and still no answer. Commissioner Moore stated that he thinks there is a misunderstanding here about County roads. There are many miles of County roads in Otero County that are not maintained. They are primitive status and not maintained by the County. You say there is a map here that says it is a maintained County road, and I don't dispute that because I don't know one way or the other. But there are a wide array of what might be on the map that the County does not maintain and they are considered primitive ways. Bill Lee stated that is true and G008 would have been one of those roads. About 7 or 8 years ago the superintendent at that time sent some maps to the guy who maintained that area and had him mark the roads that he did blade and which roads that he knew of that might be on the map and never bladed. Commissioner Moore asked do we need to change what's in our status of when we talk about a County road. Do we need to have a designation for un-maintained public-way. Dan Bryant stated that we can do that. The truth of the matter is, the purpose of the County Road map is to submit to the State for reimbursement dollars for the amount of roads that we actually maintain. The recommendation that I have made to Bill and Marty that will be contained in the letter that Bill and I are working on and the Commission will get a copy of it, will be that we go through a process and we have to follow a statutory process with some viewers, but we delete all of those roads

from the map, so our map will be accurate with what we are actually maintaining.

Commissioner Moore stated that if you build the road to County standards and submit it, we would consider it for maintenance. Is that what your Dad was told in 1957? Mr. Regan stated that his Dad showed him the letter that told him to build the road to County standards, it would be maintained by the County. Mr. Regan doesn't know where the letter is today. Commissioner Moore stated that this is still the rule today. Build the road and maintain it for one year. After the one year time we would consider it for County maintenance. Mr. Regan stated that if he has to build a road he will build a private road. But what I'm saying why isn't this road being graded, it's on the map. Commissioner Moore stated that it's being on the map doesn't mean that it's getting graded. If you guys have documents that say it was a maintained road, I haven't seen any documents that say it was, maybe it's a road that we have not maintained. Mr. Regan stated that on this map that I have, says the County has 853 miles of road in that area maintained. I would like to know where those roads are at. I have never seen any maintained roads over there besides 506. Bill Lee can give you a list of all the roads in the area, or you can have a list of all the roads in the County that we maintain. Commissioner Moore told Mr. Regan if they would like to get on the regular agenda to have the girls put you on. Dr. Moore will continue to get a hold of the property owner and Bill will look at his inventory.

7. Dan Bryant reported that the Teski lawsuit was voluntarily dismissed by the plaintiffs 2 days ago. We met with our lawyers a couple of weeks ago, formulated a response and filed some motions. Our motions crossed in the mail with their dismissal.

Commissioner McGinn stated that she believes that someone had something under probationary employees in personnel in the Sheriff's Office. Dr. Moore stated that we discussed this with the Elected Official and they requested that they be able to discuss this item on the 22nd. The Sheriff has

requested this item be discussed in Executive Session today.

Commissioner McGinn made a motion to go into Executive Session to discuss under Personnel issues, probationary employees. The motion was seconded by Commissioner Nivison.

Commissioner McGinn amended her motion to go into Executive Session to include Personnel issues under probationary employees and pending and threatening litigation. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Nivison	yes
Commissioner Moore	yes

Commissioner McGinn made a motion to come out of Executive Session were we discussed pending and threatening litigation and personnel issues under probationary employees, having made no decisions. The motion was seconded by Commissioner Nivison. 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 12:25 p.m.

APPROVED:

Doug Moore, Chairman

ATTEST:

Robyn Silva, County Clerk

Work Session, June 20, 2006