

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 Chairman at 8:30 a.m., June 26, 2000; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News, Mountain Monthly, and to Radio Stations, KPSA, KINN and KYEE.

Present:

Richard Zierlein	Chairman
Tim McGinn	Vice-Chairman
Ronny Rardin	Member
Ruth Hooser	County Administrator
Virginia Fletcher	Assistant County Administrator
Dan Bryant	County Attorney
Frank Portillo	Road Superintendent
Kim Chavez	Deputy Clerk

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Commissioner Rardin gave the invocation, Commissioner McGinn led those assembled in the Pledge of Allegiance and Commissioner Zierlein led the salute to the flag of New Mexico.

I. Executive Session:

a) Commissioner McGinn made a motion to go into Executive Session to discuss collective bargaining, pending litigation, personnel items, land acquisition, roads and the Detention Center. Commissioner Rardin seconded the motion. Roll call was taken as follows:

Commissioner Zierlein yes

Commissioner McGinn yes

Commissioner Rardin made a motion to return to Regular Session and stated all that was discussed was collective bargaining, personnel items, pending litigation, land acquisition, roads, and the Detention . Commissioner McGinn seconded the motion.

Commissioner McGinn yes

Commissioner Zierlein yes

Commissioner Rardin yes

II. Consent Agenda:

A. Minutes

6/5/00

6/9/00

B. Bills Lists:

#54

#55

#56

C. Personnel items:

1. Other:

Change in Employment Contracts:

Raymond Harper - Fairgrounds

Kelly Oliver - Fairgrounds

Denise Syling - DWI

Yolanda Williams - DWI

D.J. Gallegos - DWI

D. Grant/Subdivision Coordinator:

Resolution No. 06-26-00/88-55 regarding Budget increase and revenue increase for CDBG 99-N-NR-C-I-G52 for Zia Therapy CDBG Fund (73).

Commissioner Rardin made a motion to approve items A, B, C and D as presented. Commissioner Zierlein seconded the motion. A vote was taken and the motion passed unanimously. See pages_____.

III. Inter-Departmental Items:

1. Road Department:

Contract #ICQ-98-005, renew Petroleum Products Contracts for Fiscal Year 2000/2001. Commissioner Rardin made a motion to approve contract #ICQ-98-005. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages_____.

IV. Administrator's Reports:

1. Richard Zierlein:

Resolution No. 06-26-00/88-54 Economic Development Tax Abatement on Stream Corporation. Commissioner McGinn stated that the County needs to do something to entice businesses that can offer a large number of jobs to come to this community. Commissioner Rardin stated that the Commission should write a letter in support of the Stream Corporation coming to Alamogordo. Commissioner Rardin made a motion to approve Resolution No. 06-26-00/88-54. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously.

See pages_____.

2. Contract for Services between Lincoln and Otero County for Housing of Prisoners. Commissioner Rardin made a motion to approve the contract for services between Lincoln and Otero County for housing prisoners. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages_____.

3. Resolution No. 06-26-00/88-56, Budget increase Detention Center/Civil & Criminal Justice Facility (79). Commissioner Rardin made a motion to approve Resolution No. 06-26-00 88-56 with the stipulation that the Sheriff has gone over his budget and he will be reimbursing the General Fund back this money from his Interdiction Fund. Commissioner McGinn seconded the motion. Commissioner McGinn asked the County Administrator to explain the Interdiction Fund (88)? Mrs. Hooser stated that this fund is a covert fund where money comes from selling confiscated cars or if there is any money from a drug bust the money goes into this fund. The money will be taken out of the Sheriff's Interdiction Fund and put into his building line item. A vote was taken and the motion passed unanimously. See pages_____.

V. Commission Discussion/Correspondence:

A. Ronny Rardin

1. Discuss Tumbleweed Lane and Angel Lane.

Commissioner Rardin stated that he was talking with a resident on Angel Lane and they have a piece of property that a resident drives across to go visit another resident in the area instead of taking Angel Lane to the Highway. Commissioner Rardin stated the road is not a County Road and it is not County maintained. The road is a private individual's and the person wants to put up a gate but every time he tries he is told that he can't because it is a public road. Commissioner Rardin stated

that a private individual is paying for the taxes on the property. Mr. Bryant stated that the property owner needs to lock the gate. No other action was taken.

B. Timothy McGinn

1. Discuss Berm at Gerstberger.

Commissioner McGinn stated there is a Berm on the Gerstberger property located north of Tularosa. The Berm broke and flooded the County Road and did a lot of damage. Commissioner McGinn asked if the County is going to leave the Berm the way it is and continue fixing the road every time there is a flood or does the County want to go in and fix the Berm. Mr. Portillo stated that there has been two good rain falls in that area and a lot of water came through the Berm, went over the road and left fine gravel and rock on the road which was scraped off with the blade. Mr. Portillo stated he did have to haul five loads of pit run but it was not that much of an expense. Mr. Portillo stated that the Berm is located on private property and is not under County maintenance. Commissioner McGinn informed Mr. Gerstberger that the County will not go on to private property but if the Berm is not fixed the road will get washed out every time and the County will have to spend more money fixing the road each time. Commissioner Rardin stated that under some circumstances the County can go on private land to protect County property. Mr. Portillo stated that the Commission needs to look at this real close because they may be getting into something that will have to be taken care of from now on. Commissioner Rardin feels that the decision needs to be left up to the management of the Road Department. No other action was taken.

VI. Richard Smith - Berm at end of the Ute Trail cut by property owner north of him. Mr. Smith asked the Commission who gave permission to cut the Berm? Commissioner Zierlein stated that from his understanding that a property owner cut the Berm on his

property to gain access to a County road. Commissioner Rardin stated that is not the Counties property and the County does not have any jurisdiction so this would have to be something brought up in the courts. Mr. Portillo stated that the property owner that cut the Berm came to the Road Department and showed Mr. Portillo a plat with a fence around the property and asked if he could use the County Road. Mr. Portillo informed him that the County can't stop the property owner from using the County Road because it is for the public. Mr. Portillo suggested to the property owner that if he was going to use the road that he should leave a hump in the Berm, not cut it out. Commissioner Rardin stated that the courts may make him put the Berm back. Commissioner McGinn stated that when the County accepted the subdivision the Berm was there to control floodwaters. When these residents bought property they were afforded that flood protection by the Berm. Commissioner Rardin asked Mr. Smith what he wanted the County to do. Mr. Smith stated he wants the County to have the Berm put back the way it was. Commissioner Rardin stated that the County can't do that. Mr. Smith stated that he is under the understanding that Mr. Portillo gave permission for the Berm to be cut. Commissioner Rardin stated that Mr. Portillo informed the property owner that the County could not deny access to the road but there is a Berm there and it may cause flood problems for other property owners if it is removed. Mr. Bryant stated that without studying the plat and the dedication he can't make a decision. The property owner does not have the right to take access and in doing so damage his neighbors property by a heightened flood hazard. This is not something this Commission has jurisdiction over a court will have to make the decision of whether he has created an unreasonable risk. Commissioner Zierlein asked that the County Attorney review this and inform Mr. Smith what he finds from the research. Bill Hornback stated that the biggest question is did Mr. Portillo imply that the Berm could be cut. Commissioner

Rardin stated that Mr. Portillo gave the advice he has given to hundreds of other residents that this is a County Road and the resident is welcome to do whatever it takes to gain access. Commissioner McGinn feels that this should be a County matter not a civil matter. No other action was taken.

VII. Rick Gutierrez - Requesting improvements on Baca Farms Road.

Mr. Gutierrez approached the Board to see if the County could do some improvements on Baca Farms Road. Mr. Gutierrez asked the Commission if the road could be chip sealed or if not have some gravel put on it. The road is about a 1/4-mile long. Since the last rain the road has been eroding into the creek. Mr. Gutierrez stated that he has talked to the Tularosa Ditch Corporation and they stated that they were going to put in some pipe. Commissioner Zierlein stated that chip sealing probably won't happen because of the lack of revenue and because the road is so short. Mr. Portillo stated that the ditch association is supposed to help control some of the erosion. Mr. Gutierrez also requested that the road be maintained up to his gate. At one time the road was maintained to the gate. Mr. Portillo stated that records show that the road was only maintained for 4/10 of a mile and it is not under County maintenance. Commissioner Zierlein informed Mr. Gutierrez that the County has stopped maintenance on a lot of roads because there are no easements. Mike Baca, a resident of Baca Farms Road, approached the Board and asked how often the roads are supposed to be graveled and maintained. Mr. Baca stated that this road has not been graveled in the last two or three years. Mr. Portillo stated that at one time there was so much gravel on the road that it was getting corrugated so the blade man had to push the gravel to the side of each road then when it rains he pushed it back onto the road. Commissioner Zierlein informed Mr. Baca that there is no set schedule of when gravel is placed on the roads and is done when the funds are available and there is time. Mr. Baca asked if the County could put up some speed limit signs because people are driving to fast

down this road. Commissioner Zierlein informed Mr. Baca that the County does not put up speed signs on dirt roads. No other action was taken.

VIII. Betty Bradley - Removal of junk cars on the corner of El Paso and Smith Street and also between El Paso and Matthew. Commissioner Zierlein stated that the County does have an ordinance on the books which is implemented by a complaint to the Sheriff's Office. Commissioner Zierlein informed Mrs. Bradley that the Sheriff's Office will have to take care of this matter not the Board of County Commissioner's. Sheriff Lee stated that he will have the complaint filed and start procedures to have the junk cleaned up. Mr. Bryant stated that with this ordinance there have been a number of properties cleaned up in the County. Mr. Bryant stated that once the complaint is filed the Sheriff will then get the information to Mr. Bryant so that he can draft a letter informing the property owner that they either have to clean up the property or the County will clean it up and file a lien against the property to pay for the clean up. No other action was taken.

IX. Mayor David Venable - Discuss the roll off convenience center area in Cloudcroft, NM on Mescalero Avenue. Ed Bunn, Lynette Wedig and Mayor David Venable approached the Board to discuss the roll off convenience center in Cloudcroft. Mayor Venable asked the Commission for help in coming up with a solution for the problem that occurs when the roll off containers are full and the gates have to be locked at the convenience center. Mayor Venable stated that it has been discovered that four individuals have been seen depositing their trash outside the gates of the convenience center. Three of these individuals live in the County and one in the Village limits. Mayor Venable would like to come up with some type of plan to develop a convenience center such as the one located on La Velle Road in Alamogordo for the Sacramento Mountain Community. As of the end of April, the Village of Cloudcroft has spent \$21,000.00 for the present

roll off site. The Village only budgeted \$15,000.00. There needs to be some type of resolution if the Village is going to provide the space and area for these roll off sites. There needs to be some major modification or expansions to service the entire community. The usage extends from Mayhill to almost Timberon. Mayor Venable stated that the County has saved the Village money by pulling the roll off containers. Commissioner McGinn stated that he would be willing to look into the County pulling the roll off containers for free if the Village would consider hiring a full time person to man the convenience center. Mayor Venable stated that this has been considered but the Village can't afford it. The Village has also considered closing the site but then people will throw the trash all over the roads. Mayor Venable would like to see a properly manned convenience center. Mayor Venable stated that he would like to set up a meeting with the County and the Village Attorney to discuss the matter. Commissioner Zierlein suggested that the County and Village need to work together and figure out a budget and a joint powers agreement for the convenience center. No other action was taken.

Regular Meeting June 26, 2000

There being no further business before the Commission, the Chairman adjourned the meeting at 11:00 a.m.

APPROVED:

Chairman

ATTEST:

Mary D. Quintana
Otero County Clerk

AGREEMENT
RE: Village of Cloudcroft Dispatch Services

THIS AGREEMENT is hereby made between the County of Otero, State of New Mexico, and the Village of Cloudcroft for dispatch services for fiscal year 2000/2001.

NOW THEREFORE, in consideration of the mutual benefits to be derived by each of the parties hereto, the County of Otero and the Village of Cloudcroft agree as follows:

1. The Otero County Sheriff agrees to provide twenty-four (24) hour dispatch service for all police, fire, and ambulance calls for the Village of Cloudcroft. This includes all record of calls, NCIC, teletype, criminal history, and other duties related to the dispatch service.
2. The Village of Cloudcroft agrees to reimburse Otero County in the amount of \$20,000.00 (Twenty Thousand Dollars) for the service.
3. This Agreement may be terminated by either party upon a thirty (30) day written notice to the other party by return receipt mail.

THIS AGREEMENT becomes effective on the 1st day of July 2000 and expires on the 30th day of June 2001.

BOARD OF COUNTY COMMISSIONERS
OTERO COUNTY, NEW MEXICO

ATTEST:

MARY D. QUINTANA, County Clerk

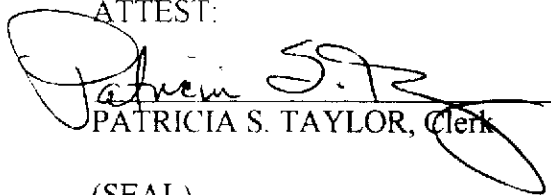
(SEAL)

RICHARD L. ZIERLEIN, Chairman

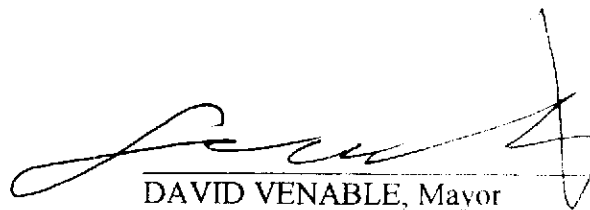
TIMOTHY D. MCGINN, Vice Chairman

RONNY RARDIN, Member

ATTEST:


PATRICIA S. TAYLOR, Clerk

(SEAL)


DAVID VENABLE, Mayor
Village of Cloudcroft

APPROVED:

DANIEL A. BRYANT
Attorney for Otero County

APPROVED:

JEFFERSON RHODES
Attorney for Village of Cloudcroft