

Regular Meeting

July 19, 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 Chairman at 6:00 p.m., July 19, 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:

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| Doug Moore | Chairman |
| Clarissa McGinn | Vice-Chairperson |
| Michael Nivison | Member |
| Dr. Martin Moore | County Manager |
| 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:

Commissioner McGinn made a motion to approve items A. Bills List #58, #59, #60, #61 B. Minutes, C. Health Care Services for other providers closing out the 2006/2007 fiscal year, D. Personnel, E. Purchasing, F. Resolutions, Contracts and Agreements, and G. Elected Officials, Department Heads,

Committee Reports, with the exclusion of F8. The motion was seconded by Commissioner Nivison and discussion was held.

Commissioner McGinn stated that on the Bills List we had some discussion at the Work Session about the insect emergency expenditures and received some information back from Dr. Moore that shows that we will be getting further expenses come before us for prior approval at a Commission Meeting. Commissioner Moore stated that this is correct. For the audience, we as a Commission have earmarked about \$100,000 of the County's money to deal with any expenditures we may need to pay for the defoliation and insect infestation on the National Forest. We have provided some expert testimony as well as analysis. We are working with some professionals in analyzing the potential of a variety of insecticides and their effectiveness against the insects involved. That is the nature of the expenses by which we speak. I think the expenses are less than \$1,000. In the future, it may be the best thing to do for the citizens that the County step in and provide some additional funding for possible aerial application of these insecticides.

A vote was taken and the motion passed unanimously. See pages

a. Consider approval of Resolution No. 07-19-07/96-03 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority for the purchase of a fire apparatus for the Far South Fire Department. The purchase of \$274,944 will have no impact on the General Fund.

Commissioner McGinn made a motion to approve Resolution No. 07-19-07/96-03 for discussion. The motion was seconded by Commissioner Nivison.

Paul Quairoli stated that the Far South Fire Department, located in Chaparral NM, is rated as an ISO 6. They have lost service of one of their engines. Under state statute, the Fire Marshall's Office can say that they are not allowed to spend any more money to fix it because it isn't cost effective. They are

requesting to go out to bid. The loan from New Mexico Finance Authority is not allowed to exceed fifty percent of what the Fire Marshall's Office funds them, which brings us to a total of \$242,000 for a ten year life span or more. They have about \$34,000 to put down on the truck and other equipment to help increase their ISO rating and lower the insurance cost. Commissioner Moore is concerned with the purchase price of \$274,000. Commissioner Moore would like the language changed to "a price not to exceed \$274,000" and also not to sole source this engine. A vote was taken and the motion passed unanimously. See pages

b. Recognition of the dissolution of the Sacramento Mountain Search and Rescue and reallocation of assets and funding to Alamogordo Search and Rescue.

Commissioner Nivison made a motion to consider the dissolution of the Sacramento Mountain Search and Rescue and reallocation of assets and funding to Alamogordo Search and Rescue. The motion was seconded by Commissioner McGinn for discussion.

Paul Quairoli stated that the Sacramento Search and Rescue was formed about 2 years ago to assist Alamogordo Search and Rescue in the Sacramento Mountains for lost hunters and anybody else who got lost. They have had a problem of retaining membership. The Director of the Sacramento Mountains Search and Rescue called Mr. Quairoli and told him that he was down to two members and they were no longer able to function as a search and rescue department and would like to turn over their equipment to the County. Mr. Quairoli stated that what he would like is for the Commission to consider taking the equipment and the money earmarked for Sacramento Mountain Search and Rescue, and turn it over to Alamogordo Search and Rescue. Commissioner Moore stated that he has no problem of relocating the equipment and funds to the Alamogordo Search and Rescue. If the Sacramento's disband, some of our volunteer fire fighters may end up being a first responder in a rescue event. We should look at the inventory, and what is considered surplus for the Alamogordo Units should be made available to our EMS

personnel.

A vote was taken and the motion passed unanimously. See pages

2. Citizen Communications:

a. Tommie Herrell approached the Board with his request to vacate Dusty Lane Road in Otero County. Commissioner McGinn stated that before we vacate this road we will have to hold a public hearing and notify all surrounding property owners of the request. Commissioner Moore requested staff to get a list of surrounding property owners and send them letters for their input.

Dan Bryant stated the public hearing process applies specifically in the vacation of a subdivision road and Dusty Lane is not in a subdivision. There is a different portion of the statute that covers vacating county roads that are not in a subdivision. The process can be completed between a month to forty five days. Mr. Bryant stated what needs to be done is identify three property owners in the area who are willing to serve as viewers and for them to be present at the next commission meeting. They will put together a report to bring to the commission at another commission meeting.

3. Commission Discussion/Correspondence:

Commissioner McGinn, stated that one afternoon County Manager, Dr. Martin Moore, Engineer's Inc., and herself met on Nogal Canyon and Riata Road flood projects. Currently they are in the drainage study phase analyzing where the water flows in those particular areas when it storms or flood events. Once that drainage study is done within two weeks they will report to the commission. Then the Commission will go ahead with an easement analysis and comparison to find out where the flood waters go and then go into the design stage on this particular project.

Commissioner Nivison stated the Forest Service has posted their legal notice for their intent to spray in late October or November. There will be constant monitoring by the County, New Mexico Game

and Fish, and Forest Service to make sure they spray when the caterpillars are out. Commissioner Nivison stated he will be attending meetings concerning this matter.

Commissioner Moore stated at the work session they went into great detail about the final budget and it will be approved. They also approved additional monies for the Riata Road culverts to come out of the General Fund. That Project has been with previous Boards for ten years, it was there before this commission came into office and we don't want it to be there when we leave. Also the same deal with the clinic of Chaparral, they are short \$110,000 to equip a clinic that will work in conjunction with a State Health Office which the County will provide space at that facility. It will also provide much needed preventive women's care as well as services for infants and children and immunizations. The County's concern is that those services are not happening in that community because those resources are not approximate.

Commissioner Moore stated also in the community of Chaparral there has been a long contention over a proposed solid waste landfill site that pre-dates the current commission twelve to fifteen years. According to Commissioner Moore, what happened was the initial operator was challenging the State Court of Appeals, they (the operator) was required to have a public hearing in order to consummate the permit, all though they had already been through a public hearing. The CDC (Colonias Development Council) had challenged legally and won the appeals. The only requirement was that they have an additional public hearing in the community. That company sold the permit to another company and stayed that way for about four to five years. It all started about two years ago when the new possessor of the permit decided to have the final public hearing in Chaparral to build that facility. The facility was going to be immediately off Highway 54 and within the community of Chaparral. The Commission joined suit with the CDC to intervene with that process and represent the residents of the county. That process has been ongoing for a

couple of years and the actual hearing was scheduled for today in that community. That was going to be the last input and then the New Mexico Environment Department was going to make their determination whether to issue that permit. The county spoke with the operator as well as CDC and they think they have come up for an alternate plan which might be more satisfactory. The County hopes that the New Mexico Environment Department will abandon the permit process and site. The County will attempt to help them move to an alternate location about three and one half miles north of Chaparral. It will be out of site and not on Highway 54.

4. Public hearing:

The time being 6:30 p.m. a public hearing is convened to consider approval of the proposed issuance of a liquor license #A-515105 to Robert E. Dann, doing business as Dos Viejos Winery, located at 69 Pecos Road, Tularosa, New Mexico

Commissioner McGinn made a motion to approve the issuance of liquor license #A-515105 to Robert E. Dann doing business as Dos Viejos Winery, located at 69 Pecos Road, Tularosa, New Mexico. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

5. Unscheduled Citizen Communications:

Brenda Purvis, resident of Dog Canyon, approached the Board to ask if there are any funds for the Dog Canyon area to address the flooding issues that have occurred over a ten year period. Commissioner Moore stated they recently received legislative grants for areas south of town. Some of the major drainages have been addressed such as Alamo Canyon. This Commission has been looking through this legislative cycle and what it would take to create a flood district. Commissioner McGinn stated that they have spoken with legislators and worked on some projects for specific areas for flood projects. She

said recently they had a gentlemen come in from the Bernalillo County area to talk about flood district, because so many people from different parts of the county have come forward with flood issues and part of the presentation was a discussion about flood districts.

Edward Landers Jr. of 454 South Taylor Ranch Road approached the Board to discuss the flood problem. He believes the flood problems they are having have been afflicted by the US Government. The government just built a new chain link fence and cleared property behind their home. He stated there's significant amount of water standing against their back wall and their back yard is flooded and mud is in their swimming pool. The duct work got ripped off from under his dad's house. He stated that they even closed Taylor Ranch Road and he's been a resident for twenty six years and have never had any problems until the government started doing work in that area. Commissioner Moore stated Bill Parker, Public Works Director, and himself looked at some of those things and the County Commission and Road Department will be visiting with Holloman Air Base to attempt to do a site review to see if there is any mitigation.

David Frolo also approached the Board to discuss flood problems he had on South Taylor Ranch Road. He stated he's military and works at Holloman and he's been in contact with Holloman. There is a major problem with flooding on Taylor Ranch Road and the water is about a foot deep. There are new flow patterns, sink holes, and other issues on the property. Some of the water does channel through the ditches but it gets overwhelmed. The fence that was built by the government was finished earlier this year and he does not know whether it was the fence or the dirt work that caused the problems. Commissioner Moore asked if the bulk of the water is coming from San Andreas Canyon and over running the ditches? Mr. Frolo stated it's definitely coming form the Northeast angel. Commissioner Moore stated that whole mountain, which is the San Andreas Canyon, generated much of the shift. He stated they will also look into the drainage to see what they can do.

Kenneth Magness approached the Board to discuss Chaparral. The proposed site for the landfill will be near the prison. He understands that there will be a big hole to burn rubbish but it will still be visible. Commissioner Moore stated the reason they selected that site is because it is far away from Chaparral. Mr. Magness stated there has been no mention of a transfer station. Commissioner Moore stated there will be a transfer station that will attempt to service the Chaparral community residents only and not commercial.

Mr. Donald Homan, resident of Chaparral, approached the Board and said that he, as well as the community of Chaparral thanked the Commission for their interest in the clinic as well as other items occurring within the community. They would like to bring to their attention that the CDC, Colonias Development Council, out of Las Cruces, has nothing to do with United Neighbors of Chaparral. They are not the same thing. Mr. Homan, who represents United Neighbors of Chaparral, stated there was no prior notice and there was a lot of sneaking around and making secret agreements by people who are not from Chaparral. Commissioner Moore stated the County Commission joined with CDC's (Colonias Development Council) lawsuit against Waste Connections and if the CDC hadn't sued they would have the landfill site on Highway 54 and about half a mile of the community of Chaparral. He also said the CDC intervened and shut down the whole deal even though they (CDC) might not be from Chaparral. Their energy and efforts benefited the community. The county had proposed to Waste Connections, Inc. a huge area with lots of resources in the middle of nowhere. The county even asked them why they wanted a site so close to the neighborhood of Chaparral. The County told them to go as far North as they can. Commissioner Moore stated there was supposed to be a public hearing on this; however, they (Waste Connections, Inc.) withdrew their application.

Raymond Alvarez approached the Board to discuss this issue. He stated there are bigger concerns with the CDC. The CDC is not for the community. It wants to control the poor, un-educated people from

Mexico that live in Chaparral. One big issue with the CDC is they came to the Commission and protested about the job the law enforcement does in Chaparral. The Colonias Development Council has organized racism in that community and what was heard is the tip of the ice berg. They (CDC) have been in Chaparral a long time and they make the people of Chaparral believe that they are the ones bringing these things to the community. Mr. Alvarez stated it's the government, such as the Otero County Commission and Dona Ana County Commission, that bring these things. He says the CDC hurts the community and applies for big money grants making it seem that they are the ones who brought things to the community. He stated to Dr. Martin Moore that the CDC had informed the Anglo people of the community that his presentations were going to be only in Spanish. This is to discourage the Anglo people from attending the presentation. They only want the Latinos to attend and this is why they have formed a task force. Commissioner Moore stated the CDC had no input or involvement in the clinic and the transfer station that he is aware. Commissioner Moore stated that any meetings they conduct in that community, by state statute, they do attempt to present in a bilingual fashion.

Bob Sheppardson approached the Board. He stated he is a resident of Chaparral on the Dona Ana County side. He said he was also against the original site of the landfill; however, now that the location has changed he is for it. He also stated to Commissioner Moore that everyone owes him a big round of applause for having the guts to stick around in that meeting held in Chaparral. Commissioner Moore stated he gets a pay check and that's his job. Mr. Sheppardson stated to the Commission they are doing a great job.

Commissioner Moore made a motion to go into Executive Session to discuss items B, pending and threatening litigation, C, personnel and G, contracts. 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 under B, C, and G having made no decisions. The motion was seconded by Commissioner McGinn.

Roll call was taken as follows.

Commissioner McGinn yes

Commissioner Moore yes.

Commissioner Nivison yes

There being no further business before the Board, the Chairman adjourned the meeting at 8:26 p.m.

APPROVED:

Doug Moore, Chairman

ATTEST:

Robyn Holmes, County Clerk

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