

motion passed unanimously. See pages

- a. Consider approval of Resolution No. 07-26-05/94-04 for 2005/2006 Final Budget Adoption.

Commissioner Moore made a motion to approve Resolution No. 07-26-05/94-04 Final Budget Adoption. The motion was seconded by Commissioner Nivison. Commissioner Moore inquired if the requested changes have been made. Ruth stated that everything had been done and this is the Final Budget. Commissioner Nivison discussed the issue of employees coming off probation receiving cola. Donna stated that the money is not in this current budget but she recommends doing a resolution adjustment. The cost for the cola's for employees coming off probation will be \$13,000. Commissioner McGinn asked if any new employees came on would they be eligible for the cola. Donna stated that they would not be eligible until the next budget cycle. Commissioner Nivison would like to address this issue for the August 16th meeting. Commissioner McGinn directed staff to have the item on the agenda for the August 16th meeting as resolution for a budget adjustment to consider cola increases on probationary employees. A vote was taken and the motion passed unanimously. See pages

2. Elected Officials/Department Heads:

- a. Bobby Jones-Create Blue Ribbon Panel to oversee Wildlife Management in Otero County.

Commissioner Moore made a motion to approve the Blue Ribbon Panel to oversee Wildlife Management in Otero County. The motion was seconded by Commissioner Nivison. R.L. Posey, official spokesmen for wildlife issues for the Grazing and Advisory Board approached the Board with some handouts for the Commissioners. They consisted of estimates of elk in Otero County before a hunt in 2002. The Game and Fish want to reduce the population of elk to about 2,900. The Board thanked Mr. Posey for his report. A vote was taken and the motion passed unanimously. See pages

- b. Consider a final plat approval for the Sagebrush La Luz Subdivision.

Commissioner Moore made a motion to consider for approval the final plat for Sagebrush La Luz Subdivision. The motion was seconded by Commissioner Nivison.

Klad Zimmerle and Monroe Curtis approached the Board with the changes that were recommended as conditions during the preliminary approval. Mr. Curtis had a question on the road to the north, was it resolved. Klad stated that a cul-de-sac has been created so there will be no thru traffic. It will be gated and designated as a 40 ft. emergency vehicle only egress, ingress, utility, construction and maintenance easement.

The owners of the land are aware of the waterline that will be put in and they will be able to tap into it if they so desire. Commissioner McGinn stated that the concern was that the people who have the easement for emergency access, said that they don't have a problem with the easement as long as it's used for emergency ingress and egress. Klad stated that this is correct. A vote was taken and the motion passed unanimously.

c. Consider a final plat approval for the Danley Ranch Unit 3 Subdivision.

Commissioner Moore made a motion to consider the final plat approval for the Danley Ranch Unit 3 Subdivision. The motion was seconded by Commissioner Nivison. Klad stated that this is a 30 lot subdivision that has been thru state review, planning review and preliminary review by this Board. All concerns have been addressed that the reviewing agencies had as well as the County Planning Commission. A vote was taken and the motion passed unanimously.

3. Public Hearing:

The time being 6:30 p.m. the Chair person called the Public Hearing to order for the naming of Not a Lane in the McCamy Subdivision, the name of Tierra De Vida located in the La Luz fire district and renaming Sair Rd. to Flor De Campo located in the Dog Canyon fire district.

Brenda Garcia, Rural Addressor, stated that there were no protests for the naming of Not a Lane in the La Luz fire district and naming Tierra De Vida in the La Luz fire District. John Blansett stated that historically Sair

was the name of a 14 year old girl who was killed in a roll over on this road. The road was named in her memory. Brenda stated that she didn't know about this story. There was a petition to change the name by the one resident living on this road.

Commissioner Nivison made a motion to approve the naming of Not a Lane, Tierra De Vida and Sair Rd. to Flor De Campo. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

The time being 6:35 p.m. the Chair closed the Public Hearing and returned to Regular Session.

4. Consider signing the annexation petition to annex into the City of Alamogordo, County right-of ways in Northern Otero County, including Mesa Verde Ranch Road and Martin Blvd.

Commissioner Nivison stated that the City has already collected the signatures needed for this annexation. He doesn't see any reason for the County to sign the petition. Commissioner Moore made a motion to consider for discussion signing of the annexation petition. The motion was seconded by Commissioner Nivison. Commissioner McGinn stated on signing an annexation petition, what the City is requesting from the County is certain right-of-ways that fall along Mesa Verde Ranch Road and Martin Blvd, where some of the property owners have requested annexation into the City. Whether or not the Commissioners sign the petition, the annexation would still take place. Dan Bryant stated that the way the law works for our right-of-ways, is that if the County road whether we have actual written easement or simply a public roadway from long term public use, when the territory that is to be annexed abuts a County road the law requires that the road be included in the annexation. All responsibility for that road transfers over to whatever municipality is involved. It appears that we have two different annexations pending before the City Council of Alamogordo based on the petition process. In the petition process the threshold before the City Council can consider its wishes about whether to annex or not annex, at least 50 percent of the landowners within the proposed

annexed area have to sign the petition. That's why these two items have been presented to the County Commissioners, because the County owns a small part of the real estate in the proposed annexed area. On item 17 the County owns ½ of 1 percent. The County owns the road. The consequence of the annexation will be the responsibility for its repair, upkeep and maintenance will transfer by operation of law, if the annexation is approved, from the County to the City of Alamogordo. Commissioner Moore stated that he has relatives involved in this annexation and would like to withdraw his motion. Commissioner Nivison stated that we have been notified by the City of Alamogordo for their annexation request and sees no reason to sign the petition. Commissioner McGinn stated that the item dies.

5. Consider the City of Alamogordo's request to annex County right-of-ways in Southern Otero County, including Florida Ave., Diver's Cove, Escopeta Court and Ocotillo Road.

For lack of a motion this item dies.

6. Citizen Communications:

a. Lee Ann Loney-Consider approval of Health Council Membership FY06.

Commissioner Nivison made a motion to approve the Health Council Membership for FY 06. The motion was seconded by Commissioner Moore. Ms. Loney stated this membership is very routine with no changes except a few names. The Board thanked Ms. Loney for the great job that she has done for Otero County. A vote was taken and the motion passed unanimously. See pages

b. Bill Wright-Consider approval to Chip-seal Sherwood Forest and Robin Hood Roads in a cost sharing cooperative agreement between the property owners and the County.

Commissioner Nivison made a motion to approve to chip-seal Sherwood Forest and Robin Hood Roads. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages.

7. Commission Discussions:

Commissioner McGinn set the Public Hearing for the Comprehensive Plan August 17, 2005 at 6:00 p.m. in Room 253.

8. Public Hearing:

The time being 7:00 p.m. the Chair person called the Public Hearing to order to consider approving the preliminary plat for Olga Acres and Ordinance No. 03-05 repealing and amending certain provisions contained in Ordinance No. 91-04 Regulating Collection and Disposal of Refuse, Litter, Handbills and Weed Control.

Commissioner McGinn recessed Ordinance No. 03-05 until the conclusion of Olga Acres.

Kald Zimmerle and Monroe Curtis approached the Board to discuss the preliminary plat of Olga Acres. Commissioner McGinn stated that the Planning Commission came back with a recommendation to the Commission for the approval of Olga Subdivision. Klad stated that we have been thru full state review and the Planning Commission and also thru the City of Alamogordo. At this point we have satisfied all requests except the State Engineer, which we can never satisfy and GIS. They are requesting us to change the names of the roads to anything other than former names. Klad would prefer to keep it as is. The names don't duplicate any other road names in this fire district. Commissioner McGinn asked Brenda from the GIS Department if the policy is set not to name roads proper names. Brenda stated that it's not an ordinance just an office policy. This policy cuts down on personal disputes of the property owners. Commissioner Moore stated that if this isn't written in the ordinance then we need to fix the ordinance.

Commissioner Moore made a motion to approve the preliminary plat of Olga Acres. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

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Commissioner McGinn closed the Public Hearing for Olga Acres at 7:10 p.m. and opened the Public Hearing for Ordinance No. 03-05, repealing and amending certain provision contained in Ordinance No. 91-04.

Commissioner Moore made a motion to consider approving Ordinance No. 03-05 which repeals certain provision in Ordinance No. 91-04. The motion was seconded by Commissioner Nivison.

Gus Marker, Fire Coordinator, has put this ordinance together to bring the State Regulations down to the County level so the citizens would be more inclined to comply with this ordinance. Several fire chiefs have contacted Gus for clarification on this ordinance. Residents are still burning trash in burn barrels and the fire chiefs have no enforcement power to cite these people. Gus would like to take the measures necessary to give him citation authority so he can enforce this ordinance. Commissioner McGinn had a question for Dan Bryant about the environmental protection air quality on open burning which is Title 20 chapter 2 part 60, is this an actual regulation for an environmental policy. Dan stated that the citations tell you that that is an actual regulation in the New Mexico administrative code. Commissioner McGinn has a suggestion. Reading the Environmental Protection section on open burning, we could keep our ordinance the way it is, which reads, "Burning is permissible according to State Statute and Regulations" and work on the communication with the fire departments, stating. if you have any questions it's all here and it's all addressed by making that one simple statement within our ordinance. Gus agreed with Commissioner McGinn and stated that this would be a coverall without changing our ordinance. Commissioner Moore stated that he agrees with this except when you include this language it leads you to believe that the burning of garbage is permissible in some fashion and it is not. With our existing ordinance we follow the State's law, whether we enforce it or not. Commissioner Moore personally believes that the clarification about burning trash is excellent and he also likes the one about the bonfires that Gus has put in his proposed

ordinance. The burning of garbage needs to be clarified, he is always getting calls from residents telling him that by our current ordinance they can burn garbage.

Wayne Glidden, La Luz Fire Chief, stated that nobody really understands what the ordinance is, what is allowed to be burned and when you can burn. The last rules and regulations that came from the New Mexico Environmental Office stated, all burning of any item that has been treated of any sort is prohibited to being burned. All the Chiefs need to understand the ordinance and who will be the enforcing agent.

Commissioner Moore directed staff to review and provide comments to Ordinance No. 03-05 for clarification and updates for all changes at the state level. Commissioner Nivison stated that he will take guidance from Gus and the fire chiefs, wherein the communication issue needs to be resolved. Gus doesn't see any need for the ordinance change if there is no one to enforce it. Commissioner Moore stated that we should consider hiring Gus with citation abilities. Dan Bryant stated that we have the ability to do this. The ordinance does not give him this power. If we are going to give him this power, we will have to change the ordinance in order to give him citation ability.

Commissioner McGinn stated that our Fire Service Coordinator can enhance communication between everybody and we can all be consistent when we get those phone calls from the public about what they can do or can not do. Commissioner Nivison stated that he would like to table this item until recommendations are in order. Commissioner Moore withdrew his motion.

The time being 7:40 p.m. the Chair person closed the Public Hearing and returned to Regular Session.

9. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss limited personnel, pending and threatening litigation, land and roads. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner Moore yes

Commissioner McGinn yes

Commissioner Nivison yes

Commissioner Moore made a motion to come out of Executive Session having discussed pending and threatening litigation, limited personnel issues, land, roads and made no decision. The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner Moore yes

Commissioner McGinn yes

Commissioner Nivison yes

Commissioner McGinn stated that an item came up in Executive Session under lands to approve granting an easement to Texas-New Mexico Power across County property, parcel #0T-25 for an electric transmission line.

Commissioner Nivison made a motion to approve granting the easement to Texas-New Mexico Power. The motion was seconded by Commissioner McGinn. A vote was taken and the motion passed 2-0 with Commissioner Moore abstaining.

There being no further business before the Board the Chair person adjourned the meeting at 8:30 p.m.

APPROVED:

Clarissa McGinn, Chair person

ATTEST:

Robyn Silva, County Clerk
Regular Meeting, July 26, 2005