

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., September 18, 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

**DRAFT**

Chairman

Timothy McGinn

Vice-Chairman

Ronny Rardin

Member

Virginia Fletcher

Assistant County Administrator

Dan Bryant

County Attorney

Bud Martin

Assistant Road Superintendent

Kim Chavez

Deputy Clerk

**COPY**

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

Commissioner Zierlein      yes

Commissioner Rardin        yes

Commissioner McGinn was absent from roll call.

The Commission recessed the executive session until later in the meeting.

**II.     Consent Agenda:**

A.     Minutes

8/28/00

B.     Bills Lists

#7

#8

#9

**III.    Elected Officials**

C.     Mary D. Quintana - Requesting County Commissioners to hire

General Election Part-time workers.

D.     Personnel items:

1.     New Hire:

Clifford Hooper - Sheriff (part-time)

2.     Longevity:

Michael May - Sheriff

Frances Bermes-Johnson - Sheriff

3.     End of Probation:

Cecyel Bookout - Detention

Jeffrey McMaster - Detention

Anthony Makarewicz - Detention

4. Promotions:

N/A

5. Other:

Michael Vaughan Contract - County Clerk

Anthony Carabajal - Sheriff

E. Grant/Subdivision Coordinator:

Consider to approve Grant Agreement STB 00-L-NR-I-3-G364. Ninety thousand (\$90,000.00) for the Otero County Boys & Girls Club.

Consider to approve Final Plat for Danley Ranch Estates Unit 2.

F. Indigent Fund:

N/A

Commissioner Rardin made a motion to approved the consent agenda. Commissioner Zierlein seconded the motion. A vote was taken and the motion passed 2 - 0 with Commissioner McGinn absent from voting.

**IV. Commission Discussion /Correspondence:**

A. Richard L. Zierlein:

1. Alamogordo Women's Club

Re: Intent of Lease

Dan Bryant stated that the Women's club is not changing their relationship with the County. The County is leasing the building to them for management purposes only. Mr. Bryant stated it is in the best interest of the club to take the building back over. Commissioner Rardin stated that when they

came to the Commission a year ago the Women's Club could not afford to maintain it. Mr. Bryant stated that he strongly suspects that if something major does go wrong with the building they are probably going to come back and request help from the Commission. Commissioner Rardin stated that the way it appears is that their lease has run out and we are just renewing their lease. Commissioner Rardin made a motion to Lease the building to the Alamogordo Women's Club. Commissioner McGinn seconded the motion. A vote and the motion passed unanimously. See pages\_\_\_\_\_.

**V. Otero County 4-H Council - Approve 4-H Proclamations for National 4-H week, in Otero County, October 1 - 7, 2000.** Commissioner Rardin made a motion to approve the 4-H Proclamation for National 4-H week, in Otero County, October 1 - 7, 2000. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages\_\_\_\_\_.

**VI. Mr. Minjares, Mr. Granados, & Mr. DeLeon - Discuss Road Easements off of South Florida in the vicinity of Wagner Estates.** Dan Bryant, County Attorney informed the Commission that this is an opportunity for the Commission to find out what is going on and no action is requested at this time. Lee Minjares stated that he resides at 62 South Florida Avenue, which is 5.33 acres in size. Mr. Minjares stated he wanted to inform the Board about what has instigated this session. Mr. Minjares stated that on or about August 24, 2000 he received a letter from the **Burroughs & Rhodes** Law Firm, representing Mr. Veenpere, concerning an easement which borders his property as well as the property of Mr. Granados, Mr. DeLeon and Mr. Montoya. The law firm gave information relative to the easements and the letter also wanted these individuals to sign a document acknowledging those easements. Mr. Minjares stated that the easement was for 30

feet not 60 feet. Since Mr. Minjares had taken it upon himself to research this matter in 1995 he came to the courthouse and asked for the name and phone number of the County Attorney, and requested a session with the County Attorney. On September 5, 2000 Mr. Minjares met with Ruth Hooser and Linda Collins, and presented them with all the information. On September 8, 2000, Mr. Minjares met with Dan Bryant, and discussed this matter in some detail. On September 11, 2000 Mr. Minjares responded to the Burroughs & Rhodes law firm regarding the letter he was sent by them. On the same day, Mr. Minjares gave the County a letter with supporting documentation requesting a full investigation relative to what has transpired in the past and how we have gotten to this point. When Mr. Minjares says the past he means primarily allowing the development around the borders of his tract of land. On September 13, 2000 Mr. Minjares delivered to the County Administrator a statement of abandonment and vacation of property as described. Mr. Minjares gave the Commission a drawing of the property and easements in question. Mr. Minjares asked the Commission what happened with the easement on the north side of his property and the south side of Wagner estates because it impacts him directly. Commissioner Zierlein asked if the County has abandoned any of those easements? Bryant stated that we have not been able to find where any abandonment or vacation of easement was undertaken for any of the easements that were involved in this area. Mr. Bryant stated that the law has an opinion about whether an easement exists or not. The other issue is that in real life and on the ground there are sometimes easements and there are sometimes not. The bottom line is if these people will all get together to discuss this matter and can come to an agreement and come up with an appropriate request to abandon this and recognize that, we may be able to solve the whole issue. Mr. Bryant stated this was the first step and he invited everyone here today to inform the Commission of what is going on. There are two or three

encroachment problems in the area were we have easements of record that don't exist on the ground where someone has built on them. Mr. Rhodes, attorney for the Veenperes stated that he has not seen a plat showing a dedication showing this for public use. Mr. Rhodes stated that his clients problem is that the property owners are asserting that somehow they have the right to control his client's ingress and egress to their property. Mr. Minjares stated that when he saw Wagner doing the survey of where the footings for his fence were going to go he addressed the County. Mr. Rhodes stated that if nothing is done, eventually you will lose that right. Mr. Rhodes stated that there are two choices, get a direct acknowledgement from the property owners or file a lawsuit. Mr. Minjares stated we need to back track and find out why it was allowed and how it's going to be resolved. Mr. Minjares stated that this is not the first time there has been an inquiry from an attorney, Mr. Veenpere hired an attorney in the past. Mr. Minjares stated we are not just talking about a wall because adjacent to the wall there is a well head and a swimming pool in the easement. Commissioner Rardin feels that this is a civil matter that probably needs to go to the Magistrate Court. Commissioner Zierlein stated that the County does not have any building laws, he would have had to get the permit through the state. Commissioner Zierlein suggested that all the parties need to sit down and negotiate with the County attorney. Mr. Bryant stated that when he met with Mr. Minjares, Mr. DeLeon and Mr. Granados he informed them that the approval of a subdivision plat does not effect whether or not there is an easement there. Since those improvements have already been constructed on the ground there is a different situation. It appears to Mr. Bryant if certain areas are abandoned and certain not being abandon we can solve this problem. Commissioner Zierlein encouraged all the parties to sit down and negotiate so that everything can be worked out before going to court. Mr. DeLeon stated that he has planted some trees on the

easement. Mr. DeLeon stated that if the easement is not vacated on the west side of his property, eight feet of his home is going to have to be taken. Mr. Bryant stated he believes this can be fixed without going to court. No action was taken.

**VII. Administrator's Reports:**

A. Traffic Safety Education and/or Enforcement Project - Grant #01-PS-05-073 for \$2,000.00 Overtime Pay.

B. New Mexico Traffic Safety Project Information Sheet - Project #01-OP-63-073 - Operation Buckle Down \$1,800.00.

C. New Mexico Traffic Safety Project Information Sheet - Project #01-J8-10-073 - Operation DWI Blitzes \$5,700.00.

Commissioner Rardin made a motion to approve items A - C under County Administrator's Report. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages \_\_\_\_\_.

**VIII. Frances Goss** approached the Commission and stated how much her family appreciates what the Commission has done for them in their support to help the Goss family and other ranchers with their grazing allotments and to protect the forest. No action was taken.

**IX. Commission Discussion /Correspondence Continued:**

2. Otero County Compensation and Classification Policy.

Commissioner Zierlein feels that new employees should receive a increase when they get off probation. Commissioner McGinn asked what the minimum an employee starts at. Jeanie Abney, Personnel technician stated that the minimum pay for a full time classified employee is \$6.34 per hour. Commissioner McGinn asked why don't they get a raise when everyone else gets a raise?

Why should they get a double raise. Commissioner McGinn stated they get off probation and get a job that should be enough. Commissioner Zierlein stated that when people were hired on the old chart they were hired below the normal employee then after probation they were given a raise now they have no end of probation raise. Mrs. Abney stated that there were some employees that were hired and were told they were going to get a 5% end of probation raise and never received it. Commissioner Rardin feels that the Commission should give those employees that were hire before the new plan was put into effect the 5% increase they were told they would receive. Commissioner Rardin wants this cleared up and only those employees that were hired during that time frame should receive a raise.

**B. Timothy D. McGinn:**

**C. Ronny Rardin:**

**X. Public Hearing - Consider New Road Name for Acorn Lane in Mayhill Fire District.**

Commissioner Rardin made a motion to accept Acorn Lane in the Mayhill Fire District. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages \_\_\_\_\_.

**XI. Dan Bryant/Beth Hill - Request for Maintenance, Mahill Subdivision.**

Mr. Bryant stated that we now have the vast majority of response that have said yes to the maintenance. **There** are three responses that have stated they don't want maintenance. Mr. Bryant recommendation that he has enough affirmative answers and enough easements that the County can commence road maintenance. Commissioner Rardin made a motion to allow the County to resume maintenance now that the County has the proper easements. Commissioner McGinn seconded the

motion. Commissioner Zierlein asked if the motion was to bring the road up to County maintenance. Commissioner Rardin stated we are not going to improve the road just maintain it. A vote was taken and the motion passed 2 - 0 with Commissioner Zierlein abstaining from voting.

**XIII. The Commission returned to executive session.**

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. Roll call was taken as follows:

Commissioner Zierlein        yes

Commissioner McGinn        yes

Commissioner Rardin yes

**XIV. Public Hearing - Consider preliminary plat for Indian Trail Subdivision.**

Commissioner Rardin asked if this subdivision has met all requirements. Linda Collins stated that they have met all the requirements. Commissioner Rardin made a motion to approve the preliminary plat for Indian Trail Subdivision. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages \_\_\_\_\_.

There being no further business before the Commission, the Chairman adjourned the meeting at 11:14 a.m.

Regular Meeting 9-18-00

**APPROVED:**

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**Chairman**

**ATTEST:**

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**Mary D. Quintana  
Otero County Clerk**