

October 2, 2001

Regular Meeting

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 9:00 a.m., October 2, 2001; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News, Holloman Sunburst, El Paso Times, Mountain Monthly, and to Radio Stations, KPSA, KINN and KYEE.

Present:

Richard L. Zierlein

Chairman

Tim McGinn

Vice-Chairman

Michael Nivison

Member

Ruth Hooser

County Manager

LaDonna Adams

Administrative Secretary

Robyn Silva

Deputy Clerk

The Chairman gave the invocation, Commissioner McGinn led those assembled in the Pledge of Allegiance and Commissioner Nivison led the Salute to the flag of the State of New Mexico.

1. Commissioner Zierlein read the Proclamation presented by Waneta Snyder requesting that the Commission declare October as "Family Month in Otero County". Commissioner McGinn made a motion to approve the Proclamation as presented to declare October as Family Month in Otero County. Commissioner Nivison seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

2. Commissioner McGinn read the proposed Proclamation presented by Mr. Phil

Wright requesting that the Commission declare October 7th - 13th, 2001 as "National 4-H Week in Otero County".

Commissioner McGinn made a motion to support the Proclamation declaring October 7th -13th, 2001 as "National 4-H Week in Otero County". Commissioner Nivison seconded the motion. A vote was taken and the motion passed unanimously. See pages

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3. Commissioner McGinn made a motion to approve all items on the Consent Agenda as presented. Commissioner Nivison seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

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4. Mr. Bill Barr approached the Board to discuss amending Ordinance #91-04 regarding Collection and Disposal of Refuse in Otero County. He stated that in 1997 this Ordinance was amended to state that any fire would be completely extinguished by complete darkness on any day. In 1999 this Ordinance was changed. He would like to request that this Ordinance be changed back to the way it was in 1997. Mr. Dan Bryant stated that when this was originally done in 1991 there was a lot of concern about the fires burning after dark. In 1997 we altered that Ordinance to state that the burn will have to be approved by form of a permit and also the fire has to be put out by sunset. The amendment in 1999 was for the exception of agricultural functions and we wrote in a blanket exception. Mr. Bryant stated that the only amendment that was made was for early spring and late fall. There is no provision made for any type of night time burning other than to prevent freeze crops in late spring or early fall.

Commissioner Nivison made a motion to direct the attorney, Mr. Dan Bryant to prepare an amendment. Commissioner McGinn seconded the motion. Discussion was held. A public hearing will have to be held to make the provision. There are several groups that an exception

would benefit such as church groups or scout groups that want to have a camp fire after dark. Commissioner Nivison withdrew his motion. Commissioner McGinn withdrew his second. Mr. Bryant was directed to prepare an amendment for approval by the Commission so that they can proceed to a Public Hearing.

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5. Mr. Larry Fraley approached the Board to request the Commission determine if the State owned road which is known as, C-006 Sherwood Forest Road, is under County control and maintenance. Mr. Frank Portillo addressed the Board and stated that he has looked at the road and a portion of the road is county maintained. However, the portion of the road in question is owned by Mr. Griffin. Mr. Griffin stated that the road has been there approximately 50 years and the Griffins have owned it since 1929. Mr. Griffin stated that he is not keeping anyone off of his property but that he does not want the road made any wider. The Board asked the Attorney for direction on whether or not if they accept this road for maintenance, because it is not 24 feet wide, if they will be liable if there is an accident on that road. He stated that we could be liable. Mr. Bryant suggested that they plan a Worksession and all meet and look and discuss the road together. Not every road in the county is 24 feet wide and he doesn't know what the grade or anything else is on the road. Mr. Bryant also stated that the County has always said that we are not in the road building business but under certain guidelines we will accept roads for maintenance.

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Commissioner Nivison made a motion to postpone this item until next meeting so that the Commission can get together and see the road. Commissioner McGinn seconded the motion for discussion. He questioned why we are even looking at this road for county maintenance when it is not up to specification. In the past we have always asked one question when asked to accept a road and that was "Is it up to county specification"? If not, we don't accept it. The Commission decided that they would take a look at the road. A vote was taken and the motion

passed unanimously.

6. Kathy Cox, Chris Madril and Marilyn Kennedy approached the Board requesting the County Commission to approve having the Road Department re-do the Southwind Road bar ditches. Ms Cox stated that they are all property owners and they live on Southwind Road. She further stated that they have a serious problem with the surface flows over the road after a rain. She stated that they all appreciate the work that the County has recently done in chip sealing the road but since then the bar ditch is not capable of supporting the overflow of the water. When it rains the water flows over the road to the south side and floods their property like a flash flood. Ms Cox stated that she has been directed to purchase and install a larger culvert for her driveway and she is in the process of doing that right now. She stated that this alone will not remedy the problem. Ms Cox presented the Commission with several pictures with proof of the way that the culverts are placed and the way that the water washes out. They are asking the road department to please come out and blade a ditch on the north side of the road. Commissioner Nivison stated that there is going to be a meeting with the Corp of Engineers to re-think the north diversion channel that has been recently planned which may have some effect on this area. Ms Cox stated that regardless of what the Corp does we still need this done. Commissioner Zierlein asked Mr. Portillo what he thinks they should do. He stated that they need to change the 10-inch pipes to 24-inch pipes in front of their property. Mr. Bryant said that this is not the County's jurisdiction to tell the property owners to change the size of their culverts. We are not in the flood control business. There are statutory mechanisms that we can use and get together and work with the appropriate entities to design the proper guidelines for a flood control district. This is not the responsibility of the County but the property owner's responsibility to pay for these fees. Commissioner Zierlein asked Mr. Portillo if there are bar ditches needed on the sides of this road. Mr. Portillo stated that there should be. Mr.

Portillo further stated that there is a limit of 18 inches for depth of a bar ditch. The Commission stated that they are going to make sure the bar ditch is cleaned out and to the proper depth. The County can only maintain the road and the bar-ditch. When the people get their 24-inch culverts then the County will maintain the road. Mr. Bryant offered to meet with the residents of Southwind Road and give them information concerning forming a flood control district.

7. Commissioner Nivison made a motion to approve the Purchasing Items as presented. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

8. Commissioner McGinn made a motion to approve the Administrator's Report Items B, C, E, F, H, and I. Commissioner Nivison seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

9. Commissioner Nivison discussed the two Resolutions concerning the Terrorist Attacks on America on September 11, 2001. He stated that one was from the NACO and the other one is our own.

Commissioner McGinn made a motion to make a few corrections and pass both of the Resolutions that pertain to the Terrorist Attacks on Sept. 11, 2001. The motion died for lack of second.

Commissioner Nivison made a motion to send a letter of support for the NACO Resolution and to approve our own Resolution. Commissioner McGinn seconded the motion. Discussion was held. A vote was taken and the motion passed unanimously. See pages _____.

10. Discussion was held concerning the request to purchase tire bales for the Otero-Lincoln County Regional Landfill.

Commissioner Nivison made a motion to provide tire bales to the landfill and fill a number to be determined upon request. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

11. Discussion was held to consider approval of the certificate of tax rates for tax year 2001 for the Assessor's Office. Commissioner Zielein stated that the Commission always gets the blame for raising the taxes but it is the voters that pass the increase that actually raises the taxes.

Commissioner Nivison made a motion to approve the certificate of tax rates for the year 2001 as presented by the Assessor's Office. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

12. Commissioner Zierlien discussed the issue of the Pro-Rodeo beer sales at the fairgrounds. He further stated that to keep the rodeo coming to town we need to support this. He stated that they do have security and that they are insured. Mr. Bryant stated that the Fair Board is responsible for all the decisions concerning the fairgrounds. Under the rules there will have to be a license applied for and the area will have to be fenced and secured where the alcohol will be served.

Commissioner Nivison made a motion to support the sale of beer when the Pro-Rodeo is at the Otero County Fairgrounds. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

13. Commissioner Nivison discussed the report from the Forest Restoration meeting in Santa Fe, New Mexico. He stated that we can spend \$1,000 per acre to restore the forest or spend \$4,000 per acre to fight a forest fire. Instead of doing a small demonstration on one area we want the whole Lincoln National Forest to be involved. At the federal level they have asked us

to develop a ten-year plan and this is our response. The Chief of the Forest Service has the authority to give the go ahead on the restoration plan. We have given our plan to US Senator Domenci and he will take this to the Chief of the Forest and ask for approval.

14. Commissioner Nivison stated that the Fish and Wildlife Department is coming forward on the Sacramento Checker Spotted Butterfly. The Village of Cloudcroft is the most affected area. It will affect their means of income such as skiing, snowmobiling, mountain biking, etc. He stated that it was actually witnessed the crushing of the larva. Commissioner Nivison stated that there will be a meeting on the 18th and he is requesting that himself and Dan Bryant schedule a meeting prior to that with The Fish and Wildlife Department. The other Commissioners agreed to schedule a meeting.

15. Commissioner Nivison made a motion to accept the ICIP Project Summary in the order as presented. Commissioner McGinn seconded the motion. A vote was taken and the motion passed unanimously. See pages _____.

16. Commissioner Nivison made a motion to go into Executive Session to discuss litigation. Commissioner McGinn seconded the motion. Roll Call was taken as follows:

Commissioner Zierlein - Aye

Commissioner McGinn - Aye

Commissioner Nivison - Aye

Commissioner Nivison made a motion to return to Regular Session and stated that the only thing discussed was possible litigation. Commissioner McGinn seconded the motion.

Roll call was taken as follows:

Commissioner Zierlein - Aye

Commissioner McGinn - Aye

Commissioner Nivison - Aye

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At the time being 12:00 p.m., the Chairman adjourned the meeting.

CHAIRMAN

ATTEST:

OTERO COUNTY CLERK

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