

The Board of County Commissioners, in and for the County of Otero, State of New Mexico, met in a Work Session at the Otero County Courthouse in Alamogordo, County and State aforesaid. Meeting called to order by the Chairperson at 6:00 p.m., October 12, 2005; and she 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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|-----------------|--------------------------|
| Clarissa McGinn | Chair person |
| Doug Moore | Vice-Chairman |
| Michael Nivison | Member |
| Ruth Hooser | County Manager |
| Dan Bryant | County Attorney |
| Ray Backstrom | Assistant County Manager |
| Bobbie Reyes | Department Assistant |
| Bill Lee Parker | Road Superintendent |
| Lynn Estrada | Deputy Clerk |

DRAFT

Michael Shinaberry gave the invocation. Commissioner McGinn led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

1. Consent Agenda:

Commissioner Moore made a motion to approve by consent items A. Minutes, B. Bills List #12, #13, #14, #15 C. Health Care Services report for October, D. Personnel, E. Purchasing. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously. See pages

2. Resolutions, Contracts and Agreements:

- a. Resolution No. 10-12-05/94-13 describing the boundaries of all precincts in Otero County.

Commissioner Moore made a motion to approve Resolution No. 10-12-05/94-13, describing the boundaries of all precincts in Otero County. The motion was seconded by Commissioner Nivison. Robyn Silva, County Clerk, stated that there weren't many changes made. No new precincts were added to our 44 precincts. A vote was taken and the motion passed unanimously. See pages

- b. Grant Agreement for the 2005 Reauthorized Projects 1st and 2nd Bond Sale.

Commissioner Moore made a motion to approve the 2005 Reauthorized Projects 1st and 2nd Bond Sale. The motion was seconded by Commissioner Nivison. Commissioner McGinn stated that one of the projects is changing the Otero County Juvenile Detention Facility to the Inmate Holding Facility. The balance on the Bonds are good until 2008. This gives us plenty of time to complete the facility. A vote was taken and the motion passed unanimously. See pages

- c. MOU between Timberon Water & Sanitation District and Otero County.

Commissioner Moore made a motion to approve the MOU between Timberon Water & Sanitation District and Otero County. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously. See pages

- d. Service contract for Utility Audit, Inc.

Commissioner Nivison made a motion to approve the Service Contract for Utility Audit. The motion was seconded by Commissioner Moore. Dan Bryant stated we negotiated the best deal we could in terms of percentages. The Utility Audit Board was not willing to reduce the percentages any further and this is reflected in the revised agreement. Ruth Hooser stated the last audit was done in 2002 and the terms were 50 percent for the three year audit. Everything that we received funding for that had

been over paid, we paid half of that amount to Utility Audit, Inc. Dan stated that the audit is a 2 year look back and a 1 year look forward. From the proceeds that are made thru the audit, the utility companies write a check refunding to the County amounts of money that were inappropriately charged. Out of this amount the Utility Audit takes its percentage and they calculate what that percentage would be because the checks include the additional year. The company gets paid in full from this amount. What we end up with is a net check, we don't pay out of County funds for the service. The net check is on the contingency fee agreement. Commissioner Moore stated that if the County continues to over pay the utility bills significantly maybe we should have an internal auditor rather than giving away 40 to 50 percent of our over payments.

Commissioner Nivison withdrew his motion.

Commissioner Moore made a motion to table this item until the next meeting and direct staff to give him the dollar amount that was spent in 2002 so he knows how much money we were able to re-coup from the last audit and the company's fees. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

3. Elected Officials/Department Heads:

a. Consider filling the vacancies for two positions on the joint City/County Airport Zoning Board. Applicants are George Bussing and Larry Drake.

Commissioner Moore made a motion to approve filling the vacancies for the Airport Zoning Board. The motion was seconded by Commissioner Nivison for discussion. The two applicants have been notified by the City. George Bussing being present, stated that he would like to serve another term on the Board. Mr. Bussing feels that as a Board member he feels that he has not lived up to his responsibilities, but he doesn't actually know what those responsibilities are. Ray Backstrom stated that

in order for the Airport to receive federal funds, there has to be a seated Board. The City over sees this committee and they serve no other function. Commissioner McGinn would like to get some direction about what their specific responsibilities are on the Airport Zoning Board. Commissioner Moore recommends to appoint George Bussing as Chairman and to start having meetings.

Commissioner Moore amended his motion to include putting George Bussing in as Chairman of the committee. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed 2-0 with Commissioner McGinn abstaining.

b. Consider approval of waiver of payment in Lieu of Taxes from the Public Housing Authority for fiscal years 2003, 2004 and 2005.

Commissioner Nivison made a motion to approve waiver of payment in Lieu of Taxes from the Public Housing Authority. The motion was seconded by Commissioner Moore for discussion.

Mrs. Rios from the Public Housing Authority stated that the payment in lieu of taxes is something that we are obligated to investigate on a yearly basis by the Federal Government because we are not required to pay taxes. As part of our audit trail we are going back to 2003 to ask for a waiver. We are asking for a waiver because the occupancy of our housing units are very low. Dan Bryant stated that we used to do this every year for the Housing Authority. We would issue a letter waiving the PILT payment with respect to the Housing Project. It's really not real money because they don't make enough money to pay taxes, but it's part of the formality that we go through in an effort for the County to do it's part to support the Housing Authority's efforts in the community to provide low income housing.

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

c. John Blansett and Gus Marker-Consider approval for a full time position to be shared with the Sheriff's Office and the Emergency Management Department.

Commissioner Moore made a motion to consider approval for a full time position to be shared between the Sheriff's Office and Emergency Management. The motion was seconded by Commissioner Nivison for discussion.

John stated that he is wanting to hire an Evidence Technician part-time and share this person to work part-time with Gus to share his workload. John is asking the Board to look at this position since mid-year budget is coming up. Commissioner McGinn instructed Ruth Hooser to have Gus draw up a job description for this position so it can be considered at budget time.

Commissioner Moore withdrew his motion and instructed staff to present this item after we get mid year revenue numbers.

4. Public Hearing:

The time being 6:30 p.m. the Chair person called the Public Hearing to order for Ordinance No. 04-05, Franchise Ordinance for Otero County and Chaparral Cablevision and liquor license transfer from Stone Corner to Brewer oil Company.

Greg Groth from Chaparral Cablevision was present. Commissioner McGinn stated that two Public Hearings have to be held in order to change the name on the Franchise Ordinance. Dan Bryant stated that in order to enact or amend a Franchise Ordinance, two Public Hearings will have to be held. The draft that is on the table tonight is almost identical to the ordinance that we have been operating under, with this company, for the last 10 years. The differences are, we have changed the name throughout the ordinance to Chaparral Cablevision Inc. and page.5 paragraph 12, a paragraph was added that requires maintenance of a local business office and local telephone numbers. The geographic area has been extended to MacGregor Range Road.

Commissioner McGinn stated that the next Public Hearing for Ordinance No. 04-05 will be at the

Regular Meeting of November 8th where an approval can be made.

The Chair person closed the Public Hearing on Ordinance No. 04-05 and opened the Public Hearing for the liquor license transfer.

Commissioner Moore made a motion to approve the liquor license transfer of ownership from Stone Corner LLC to Brewer Oil Company. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously. See pages

The time being 6:39 p.m. the Chair person closed the Public Hearing and returned to Regular Session.

5. Consider approval of Final Plat for State Line Subdivision.

Commissioner Nivison made a motion to approve the final plat for State Line Subdivision. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

6. Citizen Communications:

a. Premier Fitness & Health Spa would like to provide a 10% discount to the County with a payroll deduction for dues, to be passed on to its employees.

Rosemarie Ferrara discussed the corporate discount being offered to the employees at no cost to the County in this proposal. The 10% discount will be allowed if the County is able to do a payroll deduction for dues. This agreement would be done with the member and Premier Fitness. The employee would have the County deduct the dues from payroll. This would be the only roll of the County.

Commissioner Moore stated that we have looked into this in the past and we didn't have the ability to add another payroll deduct line in our system. Ruth Hooser will check to see if we are able to add another payroll deduct. Commissioner McGinn stated that the first thing we need to do is see if we

have the ability currently, to add another payroll deduction. No decision was made.

7. Commission Discussion:

a. Commissioner Moore discussed the PSAP unit for the Sheriff's Office and the City Police. He believes that it's a foregone conclusion that our appeal was never seriously considered. We will continue to work with the Alamogordo Police to try to prepare ourselves for whatever our state government decides to do to us.

b. Commissioner Moore stated that a group called Rhino Waste made application to the New Mexico Environmental Department to put a landfill in Otero County on it's southern border with Texas. It was heavily debated, decisions were made on the appeal and it ended up in the State's Supreme Court where a decision was made, due process was not followed. State Supreme Court told Rhino that they needed to have additional Public Hearings in the community if their solid waste permit was to be considered by the New Mexico Environment Department. While Rhino was waiting for the Supreme Court decision, they sold to another entity. Dan Bryant stated that he received a fax today, notifying him that Waste Connections Inc. is the company that purchased both the permit and the landfill site. Commissioner Moore vehemently opposes a Solid Waste Landfill in Otero County that becomes a dumping ground for El Paso, Texas. If that is there intent and that is how they intend to proceed, I hope this Commission will oppose that action to the highest court in the land.

Dan Bryant stated that he has done a lot of work on this issue since the September 27th meeting. The sale from the Rhino group to Waste Connections Inc. occurred shortly after the court of appeals upheld the permit process. Their lawyer advised the principals in the company that the supreme court almost never grants petitions for writ of serve and when they do, very seldom ever over turns the court of appeals. The Supreme Court invalidated the permit and sent it back for more hearings. Waste

Connections operates Camino Real Landfill on the other side of the Franklin Mountains in Dona Ana County. The Camino Real Landfill serves southern Dona Ana County and the community of Sunland Park. Camino Real is up for a re-newel of its permit and the interest Waste Connections has in the Rhino Site is 1, if Camino Real gets limited when its re-permitted or if its not re-permitted in the permitting process they will have an optional site available where they can take waste from Southern Dona Ana and Sunland Park and won't be in a situation where they are shut down. When they looked all the rules and reporting that is required in the solid waste industry, if they simply sat on the permit and didn't do anything with the Supreme Court decision, when they come to their fiscal reporting for this year the purchase price was so high, that not having a valid permit on the land would put the company in a law situation and would jeopardize some of their financial arrangements. They made the decision within the last week or two that they had to go ahead with the permit process. They sent notice to the CDC, a letter to the Environment Department notifying them that they want to proceed with the hearing that the Supreme Court ordered in its opinion is being signed by their lawyer and will go to the Environment Department in a few days. Over the course of the last two weeks the Environment Department position has been its over, we issued a permit, the Supreme Court said no, unless somebody comes back to us and says something, we aren't doing anything. That is an appropriate decision for the administrative agency, but all that's going to be turned over with this request is that the process be renewed. As a consequence of all of this and because Waste Connections doesn't want to be in a fight with the community they have scheduled a meeting for October 28th at 10:00 a.m. in Las Cruces at the Administrative Office's of the Catholic Church Diocese. Dan contacted both CDC and Waste Connections and said that Otero County wants to be a participant in that meeting. Both have said that this is fine. CDC is a group that represents Chaparral's wishes.

b. Commissioner McGinn announced that we will be having a joint City/County Meeting, November 1, 2005 at 2:00 p.m. at the Willie Estrada Memorial Civic Center, Room AB.

8. Executive Session:

Commissioner Moore made a motion to go into Executive Session to discuss possible collective bargaining, pending and threatening litigation, personnel issues, land, roads and the Detention Center.

The motion was seconded by Commissioner Nivison. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner Nivison	yes
Commissioner McGinn	yes

Commissioner Moore made a motion to come out of Executive Session having discussed roads, Detention Center, personnel and pending and threatening litigation and made no decisions. The motion was seconded by Commissioner McGinn. Roll call was taken as follows:

Commissioner Moore	yes
Commissioner McGinn	yes
Commissioner Nivison	not present

There being no further business before the Board the Chair person adjourned the meeting at 7:50 p.m.

APPROVED:

Clarissa McGinn, Chair person

ATTEST:

Robyn Silva, County Clerk
Regular Meeting October 12, 2005