

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 AM, October 22, 2002; 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.

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Those being present:

- Richard Zierlein                      Chairman
- Tim McGinn                              Vice-Chairman
- Michael Nivison                      Member
- Ruth Hooser                              County Manager
- Ray Backstrom                      Assistant County Manager
- Dan Bryant                              County Attorney
- Bill Parker                              County Road Superintendent
- LaDonna Adams                      Department Assistant
- Robyn Silva                              Deputy Clerk

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The Chairman called the meeting to order and gave the invocation.

Commissioner McGinn led the Pledge of Allegiance and Commissioner Nivison led those assembled in the Salute to the flag of the State of New Mexico.

1. Discussion was held on the Consent Agenda.

Commissioner McGinn made a motion to approve Items A - D on the Consent Agenda. Commissioner Nivison seconded the motion. Commissioner Zierlein stated that he would like to discuss under "Other" the request for permission to increase part-time salaries from

\$7 per hour to \$8 per hour for the Detention Officers. He stated that the Detention Administrator submitted a letter with the request stating good justifications why we should increase the salaries.

She stated that, in order to retain the employees, we need to compensate them because turn over of those employees is liability to the County. He stated that he did disagree with the portion of the letter that stated because somebody else got a raise, we should. A vote was taken and the motion passed unanimously. SEE PAGES

2. Mr. Siegfried Mainz approached the Board concerning the dust pollution, road maintenance, traffic control, and road closure on Mesa Verde Road. He stated that the dust pollution on this road is beyond his capacity to carry any longer. He stated that the traffic starts about 5:30 AM in the morning and ends about 5:00 PM. He stated that belly dump trucks go up and down the road and create dust clouds 30, 40, and 50 feet high. Mr. Mainz stated that breathing is impossible and his lungs fill with dust. He stated that his health is being jeopardized. He stated that this terrible creation of dust and dirt has to stop one way or another. He suggested an environmental impact statement might be needed for this kind of activity. The Clean air act is completely ignored. He stated that the right to a peaceful enjoyment of my property is being taken away from him. Mr. Mainz stated that when Mesa Verde wanted the name of the road changed, the Commission was told that they wanted to make that a neighborhood friendly road. He stated that when it was a County road, the County kept it in good shape. He stated that black topping was mentioned when they changed the name of the road but it has not been done yet. Mr. Mainz stated that on July 20, 2002 there was work done on the road but not by the County. There was gravel put into the bar ditch. Then there was a rain and the bar ditch could not carry the water and it was diverted into Mr. Mainz's home. He stated that had never happened before and he has lived there for many years. He stated that his insurance did not cover the damage

because it was done by surface water. Mr. Mainz stated that it cost him \$1,000. He stated that after that, someone bladed the road and did not construct the bar ditches correctly, and there was another rain. The water came into his house again and it was another \$1,000. He stated that traffic signs are needed. He stated that it should be made clear whether the County or Mesa Verde should be responsible for road maintenance. He stated that there were no problems until Mesa Verde opened it up

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Commissioner Zierlein stated that it is a public road and can not be limited to who uses it. He stated that he will ask the Sheriff if they have speeding problems on that road and to continue watching it.

Commissioner Nivison asked Mr. Parker if that portion of the road is County. He stated that about ½ mile of the road is County road. Mr. Parker stated that the road is on the list to be chip sealed for next year.

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Mr. Rabon stated that they are going to stand behind what they said they were going to do when the name of the road was changed. He stated that it has always been their intent to improve that road from the by-pass west. Mr. Rabon stated that they will be working on the road over the next few months but it will take a little bit of time. He also stated that they are running a water truck as often as possible.

Commissioner Nivison stated that he is in favor of chip sealing the portion of the road that is County, so next year when Mr. Parker puts it on his list, he will vote for it.

Commissioner McGinn stated that the County is happy to accept from any one, their work to make any County road better, at their own expense. If you want to get gravel trucks and drop gravel for us, then we are happy to accept it.

The Commission assured Mr. Mainz that they will do their best to take care of the

situation.

3. Ms. Barbara Luna, Mr. Dan Abercrombie, and Mr. Rick Baish approached the Board to discuss the progress that has been made in the forest.

Commissioner Nivison thanked everyone for being here and stated that there are so many people to thank for all of their help and hard work and several of them are present. He also stated that they have made a significant impact on employment by putting a lot of people to work. Commissioner Nivison stated that they have put two groups together, one of which is from Lincoln County. He stated that all of these people have different skills and knowledge in different areas. Commissioner Nivison stated that they have put a plan together, based upon what the Western Governors had asked for which was a ten year program to address catastrophic fires and watershed. He stated that we have support from several Congressmen, Governors, Regional Forest Supervisors, Senators, and Legislators. Commissioner Nivison stated that they have been funded for the first amount and are waiting for the second amount. He stated that because of all these peoples efforts in this room, there has been an excitement created around this state about this project that doesn't exist anywhere else. He stated that this pilot is a pilot restoration and is called the Pilot Pilot. He stated that he has a presentation on power points that he would like to share that will show what they have been working on and the progress that they have made.

Mr. Abercrombie stated that one of the things that we are trying to do is show that we have a water problem because we have all of these straws in the water sucking it all out. He stated that the Ponderosa Pine has a root system that goes down 75 - 125 feet. The Juniper has a root that goes down about 200 feet. That is why the Pinon is dying because their root only goes down 25 feet. He stated that we are taking the little straws out but the big straws are still there.

He stated that we need to start thinning the watersheds and the County, District, NRCS, the Forest Service, the State Forestry, and the Tribe are all on board. He stated that we are all working toward the same thing which is trying to get our rivers restored and our watersheds until they are healthy. Mr. Ambercrombie stated that it is going to take a lot of people to make this happen.

Mr. Frank Martinez stated that in the last couple of years since he has been here, the cooperation from a lot of folks that we haven't seen in the years past has been one of the biggest help that we have been able to realize out of this whole thing. He stated that everyone is talking together and listening to what the needs are, the concerns are and the issues are. With the help from Commissioner Nivison working with the State Legislators and Congressmen and women, we have gotten a lot of recognition for the work that is going on. The funding that we have received has helped up to be able to increase our program and allow us to bring experts in that we would never have been able to otherwise.

Commissioner Zierlein questioned what are we doing to fix the water shed? Do we have any fire prevention plans such as logging because there are a lot of dead trees all over the forest from bug infestation? Commissioner Zierlein questioned why they don't combine the two projects of the clean up and hauling the trees away, so that it will pay for itself?

Mr. Martinez stated that we are working on the water sheds. He stated that they are very close to putting out decisions which are within a half a mile of private land.

Commissioner McGinn questioned about the Cooperative Projects. He stated that the only cooperative work that is done is after a hazardous event like a forest fire. Wouldn't it be a lot cheaper to do thinning and cutting and forest restoration projects before we have a hazard?

Mr. Martinez agreed with Commissioner McGinn. He stated that they are

shooting for clearing 11 million board feet.

Commissioner Zierlein stated that he has a question after he makes a statement. He stated that we are doing restoration and interface projects and then we are going to come in behind with another project of commercial because we are trying to avoid the appeals process or keep part of it out of the appeals process. Otero County is in a state of emergency and the State is in a state of emergency and we have Senate Bill 1 and we have the Declaration from Otero County that we are in a state of emergency. Otero County has also gone out and paid for the science to be done. Commissioner Zierlein stated that his question is what can we do to avoid the appeals? He questioned if we are utilizing everything that we can to get the job done or is there something else that we can do?

Commissioner Nivison stated that the best thing is for the County to work as a co-partner to fill in all of the holes so that when the appeals do come up, we have our social-economics together.

Commissioner Zierlein then asked Mr. Bryant what his legal advice would be.

Mr. Bryant stated that there are a lot of things that we can do and that we should be doing. He stated that there are a lot of avenues that we should consider. He stated that there is an article in the Sunday Journal that lists animals and plants that have been listed by the US Fish and Wildlife as being threatened species within the state of New Mexico. What that article does not list is the extinct businesses, the disrupted families, the displaced culture and the absolute destruction of a complete way of life in rural New Mexico as a result of failing to consider all of those human elements when we run National Environmental Protection Analysis on Species Management. Mr. Bryant stated that what has to happen is that we have to remember that we are not talking about managing the forest for our grandchildren so that they can see a

particular butterfly, a Mexican spotted owl, or a particular wolf. We are talking about a complete management strategy for a National Forest System. This is for the local communities that have grown up in the West, and this effects the entire West not just New Mexico, so that we create vibrant health for everyone concerned. He stated that it is possible and we can do this. Everybody is going to have to work together. Mr. Bryant pointed out that the greasy wheel doesn't get any attention, it's the one that is squeaking and making noise that people see, hear, and pay attention to. That is why we have to continue doing all of the things that we are doing to make this thing work. Mr. Bryant stated that when we talk about extinct species, and threatening endangered species, we never mention the loggers, and the cattlemen, and the families, and the grandchildren who will never know that way of life because they have been managed out of existence.

Mr. Bryant stated that he would like to state that this County Commission has always taken a stand and said that they want input into the process and we have always done the things we had to do to get the input and create an environment where the interests, and the health, safety, and welfare of our citizens have been taken into consideration. He stated that he will always encourage the Commission to continue to take that stand.

Mr. Tony Alviar approached the Board and stated that he is a resident from the mountain area and he stated that he is asking the County to take emergency action. He requested that everyone be able to go up to the forest and the ranchers be able to take their cattle up to graze, the loggers or who ever needs wood, come in and get it. We should advertise to the surrounding cities to come in and get fire wood. We should then get some sheep and goats up there grazing also. This will be the first step to get it going and it won't cost a whole lot of money. We need to get it going and quit talking with Washington and start concerning with the

problems that we have right here.

Mr. Doug Moore approached the Board and stated that he would like to commend all of the hard work that has been done by everyone. Of the Federal Agencies that are managing the forest, are they appropriately funded and manned so that in 10 years the residents of Otero County can anticipate to have a completely restored Lincoln National Forest? If the answer is no, what action do we need to take as a County to get those folks on line so that we can have a safe environment in Otero County as we discussed in Senate Bill 1?

Commissioner Nivison stated that we need to rebuild our infrastructure and we need the 5 million dollars that we should be funded. If we can get that, we should be able to remedy this. But he stated that this will go on and on and on. It's like getting a haircut. It has to be done every few weeks or months. It has taken us 10 years to get in this situation so it will take at least 10 to get out.

Mr. Clif Nicholson approached the Board and stated that Mr. Martinez has been asked several times how many acres are actively on the books to be cut, commercial logging. He has refused to answer that question. He stated that his question is what is this collaborative effort? It is something that President Bush does not know. Gayle Norton came out in August and stated that we need to modify the environmental law of this nation to effectively thin the forest. This collaborative effort does not mention it. What is not being said today is that the Western Governor's Association Collaborative effort that refuses to say how many acres are going to be cut, are talking board feet in the millions but they don't talk about acres. They also don't talk about the multi-tier thinning. Also what they don't say is that this group, in large part, was drafted by the Wilderness Society and the Sierra Club. He stated that is the program that is being put in place today. Mr. Nicholson stated that we have been sitting here for two years after

we passed our resolution. We see a lot of efforts on the screen to clean up the forest after the fire, but we see very little about preventing the fire.

Mr. Nicholson stated that if the policy is in place, and if it will work, and you are willing to assure that it will work, then he asked that this Commission request from Ann Veneman, that she allow us to implement that program on a state level. If she chooses not to do that, then I ask that we petition her to implement the program that you say will work. He stated that in the alternative that it does not work, if it does not prevent forest fires of catastrophic proportions or clear our watersheds, then we should ask Ms. Veneman to stand liable for a policy that has failed.

Mr. Nicholson stated that he would like to say one last thing. Large wild land fires will continue to occur. This cohesive strategy aims to reduce loses and damages from these wild fires by concentrating treatments where human communities, watersheds, and species are at risk. Until restoration efforts are significantly expanded in fire adapted eco-systems, the risk to watershed, species, and people will continue to increase.

Mr. Nicholson stated that while we are waiting for this policy to be implemented to which there are no answers to direct questions, he asked that we petition Ann Veneman to stand by financially, as financially responsible for the goodness or the badness of her policies for which she has joined with this County, with the exclusion, of any other in America.

Commissioner Nivison stated that for someone to make a lot of statements that hasn't been there or to the collaborative effort meetings and doesn't know that we have gone from 2 million board feet last year to 7 million board feet this year. He stated that the comments that came out of the GAO was actually made out of the Chief of the Forest Service Dombeck's office about where we were back in the Clinton Administration. We are not in the Clinton

Administration anymore. We have an Administration now that is trying to work with communities on the ground. He stated that we have made requests, and been blessed with getting money so that people aren't needing. He stated that we can minimize that, but if you made that statement around Mayhill, it wouldn't be minimized. He stated that the silver bullet approach of sending a letter to Ann Veneman, is like slapping the person that is working with you.

Mr. Johnny Wilson stated that he didn't see Mr. Martinez refuse to answer the question. He stated that he didn't know the acreage but he never refused to answer the question. Mr. Wilson stated that the Forest Service can probably furnish those totals for the Commission within a couple of hours. He stated that it is no secret and it is all public knowledge.

Mr. Wilson stated that the answer to Commissioner Zierlein's question of what the County can do to help is the Lobbying, because the Forest Service cannot. The answer to Mr. Moore's question is the County can do the lobbying. He stated that, concerning the appeals, the forest service can work through those because it is administrative appeals which is a matter of following a process. He stated that we really have to follow that process because the environmental groups are really watching us. He stated that where they will need help is when they get to the law suits. He stated that right now there is a law suit against a timber sale. Mr. Wilson stated that there is a separation with the urban interface work, which is protecting life and property and then the commercial timber sale. Right now what is happening through the forest service is negotiating with the environmental groups to not file law suits. He stated that is the only negotiating that they have been doing. They have told them that they will not file lawsuits if they are cutting small trees that are small in diameter. That is why Mr. Martinez said they are going to make some separate decisions. We want to get the job done that everyone wants us to do and we want to protect the life and property. But if we say that we are

going to thin a certain area, we could be tied up in Court for years before any of the thinning is done. If we separate the two, we can cut some of those smaller trees out and do some prescribed burning. We can at least reduce some of the risk. Then when we get ready to come back with the proposal to remove the commercial trees, we know we will be slapped with a lawsuit. Mr. Wilson stated that it makes since to them to protect the life and property instead of being stubborn about it.

Mr. Don Cooper stated that we are running out of water and we need to do something before it is too late.

Mr. R L Posey stated that there are hundreds of diseased trees all around the power lines in the forest and it has been determined that a diseased tree falling on a power line is how the Scott Able fire was started. He recommended that the trees around the power lines be the first to be thinned.

Mr. Gary Wood from the Otero County Coop stated that they have crews that have been out in the forest for about 10 years thinning trees around the power lines.

Mrs. Yvonne Oliver stated that when Mr. Williams spoke he mentioned the cost of logging, but she stated that they have some property in the mountains and when they had it logged they gained greatly from it.

Mr. Bill Hornback stated that the Endangered Species Act is crap. He stated that it has been effecting all of our necessary projects in this County for a long time. He applauded the efforts and hard work of Commissioner Nivison with the local agencies in this area. He stated that he has stepped out there and committed himself to a situation that is, at times, without thanks. He stated that we cannot limit the restoration of the forest to just the edges or just a few percent. He recommended that the Commission sign the petition. He also recommended that we

bring the PLUAC back.

4. Commissioner McGinn stated that he would like to discuss the Notice of Petition regarding Ann Veneman, U.S. Secretary of Agriculture. He stated that he has prepared a statement to the Commission that he would like to read to try and convince them to sign the petition. SEE BOOK

Commissioner McGinn made a motion for the Commission to sign the petition for Ann Veneman. **DRAFT**

The motion died for lack of second.

5. The Commission discussed Inter-departmental Items. Commissioner Zierlein stated that he cannot support Item #1.

Commissioner Nivison made a motion to approve Item #1 under Inter-departmental Items. Commissioner McGinn seconded the motion. A vote was taken and the motion passed 2-1 with Commissioner Zierlein voting against. SEE BOOK

6. Commissioner McGinn made a motion to approve Item #2 under Inter-departmental Items. Commissioner Nivison seconded the motion. A vote was taken and the motion passed unanimously. SEE BOOK

7. Commissioner Nivison made a motion to approve Item #3 under Inter-departmental Items. Commissioner McGinn seconded the motion. Discussion was held. Commissioner Nivison amended his motion to follow the state contract. Commissioner McGinn seconded the amendment. A vote was taken and the motion passed unanimously. SEE BOOK  
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8. Commissioner Nivison made a motion to accept Items A-F under the Administrator's Report. Commissioner McGinn seconded the motion. A vote was taken and the

motion passed unanimously. SEE BOOK

9. Commissioner McGinn made a motion to go into Executive Session and stated that the only thing that will be discussed will be Items on the Agenda, Collective Bargaining, and Personnel items. Commissioner Nivison seconded the motion. Roll call was taken as follows:

Commissioner Zierlein - Aye

Commissioner McGinn - Yes

Commissioner Nivison - Aye

10. Commissioner McGinn made a motion to return to Regular Session and stated that the only things discussed were Items on the Agenda, Collective Bargaining, and Personnel Items. Commissioner Nivison seconded the motion. Roll call was taken as follows:

Commissioner Zierlein - Aye

Commissioner McGinn - Yes

Commissioner Nivison - Aye

11. Commissioner Zierlein stated that he would like to direct staff to prepare a letter for approval at the next meeting, addressed to Ms. Ann Veneman stating our position concerning the forest.

The time being 1:10 PM, the Chairman adjourned the meeting.

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Chairman

ATTEST:

\_\_\_\_\_  
Otero County Clerk  
Regular Meeting of October 1, 2002.