

Regular Meeting

November 9, 2004

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 Chair person at 6:00 p.m., November 9, 2004; 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 | Chairperson |
| Doug Moore | Vice-Chairman |
| Michael Nivison | Member |
| Ruth Hooser | County Manager |
| Ray Backstrom | Assistant County Manager |
| Dan Bryant | County Attorney |
| LaDonna Perry | Department Assistant |
| Bill Lee Parker | Road Superintendent |
| Lynn Estrada | Deputy Clerk |

DRAFT

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

1. Unfinished Business:

Consider approving an agreement between Dona Anna County and Otero County regarding housing of juvenile inmates.

Commissioner Moore made a motion to approve the contract between Dona Ana County and Otero County.

The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously. See pages

2. Consent Agenda:

Commissioner Moore made a motion to approve items A – E and pull item 7 under E for additional discussion. The motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously. See pages

a. Consider approving an agreement between the County of Otero and Village of Tularosa for Law Enforcement Services. John Blansett, Sheriff, stated that Dave Henley has been going through the applications and has narrowed down to 4 applicants. Two of them are already certified. Once this agreement is in place, the Sheriff's Office will be the only ones answering calls with the State Police as backup.

Commissioner Moore made a motion to consider for approval and discussion the agreement between Otero County and the Village of Tularosa with correction of changing page 1 line 5 the word October to November. The motion was seconded by Commissioner Nivison. Dan Bryant stated in the opening paragraph of the agreement there is a blank for the date. That date needs to be the date that we started providing service to the Village. Commissioner Moore amended his motion to change not only October to November, and the blank on line 4 put the 9th day to make the agreement effective today. The amended motion was seconded by Commissioner Nivison. A vote was taken and the motion passed unanimously.

See pages

3. Elected Officials/Department Heads:

a. Consider approving a Wildfire Protection Plan for Otero County, Village of Cloudcroft, Mescalero Apache Tribal Council, New Mexico Forestry Division, Fire Departments and collaborating Agencies for jurisdictions and stakeholders located within the Otero County Wildland Urban Interface. Commissioner Nivison made a motion to approve the Wildfire Protection Plan and thanked Gus Maker for working on this Plan. The motion was seconded by Commissioner Moore for discussion. There is one blank on page 1 paragraph 3 that addresses the acreage. The acreage should be 570,732.00. This is Otero County's portion of the Lincoln National Forest. Commissioner Nivison amended his motion to include the acreage. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously. See pages

b. Consider approving a Memorandum of Understanding for Roll-Off, Tire Baling Services and yard waste disposal between Otero County and Lincoln County Solid Waste Authority. Commissioner Moore made a motion to approve the Memorandum of Understanding for Roll-off, Tire Baling services and yard waste disposal between Otero County and Lincoln County Solid Waste Authority for discussion. The motion was seconded by Commissioner Nivison. Commissioner McGinn stated that for sometime now we have had a relationship with Lincoln County Solid Waste of helping each other out with different services. Lincoln County has been bringing our roll-offs down from the mountains when our truck is broke down and also bringing in tires which we in turn bale for a charge. Under this Memorandum they are requesting us to let them bring in green waste for disposal. Randy Horn gave the Board a worksheet with the cost for burning this waste. Commissioner McGinn stated that we are working on getting the site cleaned up before we take on anymore waste. Her suggestion to the Board tonight, on item C, yard waste disposal that we determine a rate that would help alleviate some of the cost that it's going to

take to do this and that we request that Lincoln Solid Waste bring that to us on an emergency contingency at this time. Commissioner Nivison stated that he would like to have a workshop with Lincoln County to come up with a mutual agreement between the two entities instead of shuffling paper work back and forth. Commissioner Moore agrees with both Commissioners but would like to have this agreement in place and amend it when we need to. When we needed their help they didn't hesitate. He doesn't want to leave our sister County or their Waste Authority in a bad situation. Dan Bryant stated that this MOU as drafted doesn't have a 30 day termination clause. It has a termination clause on page 5 paragraph 12 for cause only. It can be approved subject to adding a 30 day termination clause so we can serve notice, open negotiate or amend. Commissioner Nivison made a motion to approve the Memorandum of Understanding adding the 30 day clause and request staff to set up a workshop in order to iron out the issues. Commissioner Moore amended his original motion to accept the agreement for consideration with the inclusion on page 5 of the 30 day termination clause.

4. Public Hearing: Consider approving Ordinance No. 04-04 regarding adopting a County Correctional Facility Gross Receipts Tax. (one-eighth of one percent)

The time being 6:30 p.m. the Chair person recessed the Regular Meeting and called the Public Hearing to order.

Commissioner McGinn stated that this item has been under discussion for 3 or 4 Commission Meetings. The question is to pass by Ordinance one-eighth of one percent gross receipts tax, which will be dedicated to County Correctional Facility operational cost. Commissioner Moore made a motion to approve Ordinance No. 04-04 regarding the adoption of a County Correctional Facility gross receipt tax in the amount of one-eighth of one percent. The motion was seconded by Commissioner Nivison. Commissioner McGinn stated that obviously any passage of new taxes will create some revenues for government entities

for their operations. But at the same time it doesn't provide any incentive for governments to operate efficiently within the confines of their current tax revenues. It places the burden on the public to pay more of their income to the government in taxes. What I think this Commission needs to do is take a look at the operational cost of running our facility. Instead of throwing more money at it from raising a tax, we need to take a look at the factors that contribute to the rising costs. Because of the rising prisoner population and the length of detention time that the prisoners stay in our facility, it could in time increase the demands on the general fund which as the other Commissioners have discussed could be alleviated with the passage of this tax. Looking down the road, unless we address these factors that go into these costs of running this facility, we are going to be asking again for more from the general fund and this money is not going to solve our problems. So her vote tonight is going to be no to the passage of this tax.

Commissioner Moore stated that while he agrees with some of what Commissioner McGinn is saying he feels that we have more than one responsibility. Not only do we have the responsibility to correct the problems that have created increased incarceration time and unfunded mandates, we have to address these issues, but there has been no new County tax for the last 8 to 10 years. The state has been successful in withholding taxes that used to be reimbursed to this County. This is something that Commissioner Moore feels that he has to do because we are responsible to make sure this County is physically whole. Passing this tax will not solve the issues we have within the Detention system. This will take work with our state government and our legislator's to let them understand that they need to pay their own way. It will also take some work with the local judges to make them understand the situation that we are in.

Commissioner Nivison agrees with Commissioner Moore. He also stated that many of our prisoners are not from this area. The families that come to visit will be helping out with these prisoner's costs by buying locally.

Virginia Blansett, Detention Administrator, stated that the reason she has asked for this tax is because all the services are going up along with the inmate population. If something isn't done her budget will be in the red by the end of the year. We also need to think about long term goals not just the short term goals. Dan Bryant stated that DFA is projecting that one-eighth that is collected County wide from this tax, both inside and outside the municipalities, about \$820,000. When Dan looked at our budgets over the last 4 or 5 years, a one-eighth County wide Gross Receipts Tax for example in the Indigent Fund has not collected anywhere near this amount. When he looked at the Indigent Fund revenues, there is something wrong here. He has been talking to DFA getting answers and not getting answers. There projection is \$820,000 but the money they send back to us is not any where near this amount. So they either owe us money or their projection is wrong. Dan believes their projection is high. He believes it will be about \$660,000 on each one-eighth that is collected County wide.

There were no further comments from the floor. We have a motion and a second to approve Ordinance No.04-04 regarding adopting a County Correctional Facility Gross Receipts Tax. A vote was taken and the motion passed 2-1 with Commissioner McGinn voting no.

The time being 6:53 p.m. the Chair adjourned the Public Hearing and returned to the Regular Meeting. Commissioner McGinn returned to the amended motion on the floor for the Memorandum of Understanding for Roll-off, Tire Baling Services and Yard Waste disposal between Otero County and Lincoln County Solid Waste Authority. The amendment will add a 30 day termination clause. A vote was taken and the motion passed 2-1 with Commissioner McGinn voting no.

- c. Consider approving a one-time bonus for DWI employees. This item dies for lack of a motion.
- d. Consider approving half-day billing for the Otero County Detention Facility.

Commissioner Moore made a motion to consider approving this item for discussion only. The motion was

seconded by Commissioner Nivison. Commissioner Moore stated that if a prisoner is brought in late in day, under the current agreement, we only charge half day prices. They are still entitled to receive 50% of the daily services. Several issues need to be addressed. Not only the billing but we also need to get with our other users and discuss the day rate. It hasn't been reviewed in many years. Commissioner Moore would like to consider all of these items at one time and not separately. Dan Bryant stated that at the Commissioners instructions at the Work Session he has drafted a Housing Agreement. He addressed all of the issues in this document but not in a final form. His recommended approach is to review this draft in house and get a consensus on where the County would like to be, and then submit this draft to a working group with the City of Alamogordo. Commissioner Moore withdrew his motion. Commissioner Nivison made a motion to table this item until the last meeting in December 2004. The motion was seconded by Commissioner Moore. A vote was taken and the motion passed unanimously.

4. Commissioner Nivison introduced Mr. Hubert Quintana, Southeast Economic Development. He has taken Tony Elias's position, who passed away several months ago. Mr. Quintana will be able to help the residents from Chaparral submit the paperwork to become incorporated.

5. Citizen Communications:

a. Vecinos Unidos- Chaparral New Mexico. He introduced the group that has traveled from Chaparral to attend the County Commission Meeting. The group has worked to make the community of Chaparral better. Commissioner McGinn thanked the group from Chaparral for traveling so far to attend their County Commission Meeting.

b. Randy Wise (Las Piedras Subdivision) requesting extension of a County road 1/10 of a mile for Rock Cliff Road. The residents on this road will be bringing this road up to County standards for adopting County maintenance. Bill Parker, Road Superintendent, put together an estimate for materials and

equipment hours that will be needed to bring this road to County standards. This will be forwarded to Mr. Wise, who couldn't attend tonight's meeting.

There being no further business before the Board, the Chair person adjourned the meeting at 7:40 p.m.

APPROVED:

Clarissa McGinn, Chair person

ATTEST:

Mary D. Quintana, County Clerk

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