

The Board of County Commissioners, in and for the County of Otero, State of New Mexico met in a Regular Meeting at the Administration Building in Alamogordo, County and State aforesaid. The meeting was called to order by the Chairman at 9:00 a.m., February 9, 2023; and she announced that reasonable notice for this meeting was given to the Alamogordo Daily News and Radio Stations, KYEE, KZZX and KINN.

Present:

- Vickie Marquardt Chairman
- Gerald Matherly Vice-Chairman
- Amy Barela Member
- Pamela Heltner County Manager
- R B Nichols County Attorney
- Sylvia Tillbrook Executive Assistant
- Lynn Estrada Deputy Clerk

Roll call was taken as follows:

- Commissioner Marquardt Here
- Commissioner Matherly Here
- Commissioner Barela Here

Commissioner Marquardt gave the invocation. Commissioner Matherly led the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

Recognition: Trenton Odom-Eagle Scout

Commissioner Marquardt read the Recognition into the records that was presented to Trenton Odom as an Eagle Scout.

1. Public Hearing:

Discuss, hear public comment and consider the approval on whether the Alcohol and Gaming Division should approve or disapprove the proposed issuance of liquor license application #126566, Tularosa Distillery LLC located at 55 S. Bookout Rd., Tularosa.

The time being 9:05 a.m., the Chairman recessed the Regular Meeting and called the Public Hearing to order.

Peter Koffman, a representative for Tularosa Distillery stated that he has been working on this business plan for about seven years. He found a great piece of land outside the city limits of Tularosa. The product he will be making is called Sotol and it's made from the Sotol plant that grows wild. Commissioner Marquardt asked if this plant was a cactus. Mr. Koffman stated that it is not a cactus, it looks like a Yucca plant but much larger. There are 2 buildings on the property, one will be used for the alcohol production and the other for a tasting, hospitality area.

Commissioner Barela stated that there was one complaint turned in that the road wasn't wide enough for trucking. Mr. Koffman stated that there will not be heavy truck traffic. We will be using vans and box trucks.

Commissioner Marquardt made a motion to consider the approval on whether the Alcohol and Gaming Division should approve or disapprove the proposed issuance of liquor license application #126566, Tularosa Distillery LLC. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

The intent of the motion is to approve the proposed issuance of liquor license application #126566, Tularosa Distillery. Per R B Nichols, County Attorney.

The time being 9:10 a.m. the Chairman adjourned the Public Hearing and returned to Regular Session.

2. Department Reports:

a. David Black, County Sheriff stated that for January 2023 the Patrol Deputies responded to 2,659 calls for service. This generated 246 investigative reports, issued 115 traffic citations, conducted 47 crash investigations and resulted in 61 arrests. The Narcotics division for January 2023, was 5 search warrants, 9 arrests, 30 case reports, 3 vehicles seized, 1 firearm seized, assisted in 9 fugitive apprehensions, 1 jail possession case and 1 checkpoint case with Border Patrol. We had 30 grams of meth seized, 3.5 grams of cocaine and 36, 271 fentanyl pills seized. The total was worth \$547,000 of illegal narcotics seized. In manning we have 1 deputy position

open and looking to fill this position by next month. We have 2 deputies that started the 16-week academy in Santa Fe the first of the month. Sheriff Black stated that the Cartel is advertising on social media that they will pay someone \$5,000 per person to pick-up and transport these people to a location of the Cartels choice. Many have wristbands and depending on the color is where they go. Many juveniles are doing this because of the money they are being paid and juveniles aren't being prosecuted if they get caught.

R B Nichols, County Attorney requested that the Board approve the agenda before continuing.

Commissioner Marguardt made a motion to approve the agenda. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

b. Matt Clark, Emergency Services Director stated for January Code Enforcement opened 45 new cases, 11 solid waste, 18 weeds, 2 illegal dumping and 15 illegal burns. Closed 19 cases, 2 fire inspections and 68 follow-ups for the month. The Fire Departments responded to 134 calls, 1 structure fire, 7 other fires and 110 EMS calls.

c. Tom Porter, Road Superintendent stated for January cattleguards were cleaned out on the Mesa, hauled timber from Owen Prather and Fresno Canyon, did some patching down in Oro Vista, cleaned off some intersections of brush in Chaparral. We had 3 snow events that were responded to and continued working on Appler Road.

d. Trent Parker, Project Manager stated that most of the punch item list for the Detention Center is complete. There are a few pending items that we are waiting to receive that was part of the change order. The EOC had a change order executed that ended up being a \$84,000 credit to the County. PSAP is off to a good start. The insulation and framing package have been received. The Road Shop building is waiting on CID's approval for the permit. When it's received the foundation will begin. The pre-fabricated metal building will be delivered February 27th. Classic Builders was selected to do the restrooms for the Flickinger Center.

e. Nina Sisler, Interim Detention Director stated today's population is 179, in house the population is 121, 105 males, 16 females. There are 19 at the Otero Prison, 7 in Hudspeth County, 10 in Dona Ana County, 1 in Lincoln County and 1 in Curry County. The average daily population

for January was 193. In Dona Ana we have 3 male juveniles and 1 female. Currently the Detention Center has 30 employees and total vacancies is 27. She had 6 hires in January and 3 staff that left several years ago that are coming back. In house hearings are still going on with 63 Municipal hearings, 103 Magistrate and 82 District.

3. Consent Agenda:

Commissioner Marquardt pulled item #8, #14 and #5.

Commissioner Marquardt read items #2 through #4 and #6 through #13 on the Consent Agenda.

Commissioner Marquardt made a motion to approve Consent Agenda items #2 through #4 and #6 through #13. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

ca5. Request approval of Resolution #02-09-23/111-34, to auction vehicles and disposed property through Govdeals.com an on-line auction service.

Commissioner Barela recused herself from voting on this item since she has purchased vehicles from govdeals.com.

Commissioner Marquardt made a motion to approve Resolution #02-09-23/111-34, to auction vehicles and dispose property through Govdeals.com an on-line auction service. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed 2-0 with Commissioner Barela recusing herself.

ca8. Request approval of Resolution #02-09-23/111-37 authorizing a six-month extension of Resolution #07-14-22/111-08 for Hazard Pay, Starting Bonus, and Referral Bonus for Otero County Detention Center employees due to unprecedented staffing shortages.

Commissioner Matherly stated that he would like to have added to this resolution that when the \$60,000 runs out, it's over.

R B Nichols stated that he could add that to the resolution before the Commissioners sign it.

Commissioner Marquardt made a motion to approve Resolution #02-09-23/111-37 authorizing a six-month extension of Resolution #07-14-22/111-08 for Hazard Pay, Starting Bonus and Referral Bonus for Otero County Detention Center employees due to unprecedented staffing shortages and the program will end at the end of the \$60,000. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

ca14. Request approval of Memorandum of Understanding (MOU) between Homeland Security and Emergency Management, State Fire Marshal Division and Otero County Code Enforcement.

Commissioner Marquardt stated that she doesn't want to take on another program that the State should be paying for. We are already short staffed and our Volunteer Fire Fighters are very short staffed. She wants to make sure this is not adding cost to the County, that the State should be paying for.

Matt Clark stated that this will add some extra duties to the Code Enforcement staff, because they will actually look at commercial structures. They will work on pre-plans for the Fire Departments to help their ISO's. It helps with the life and safety aspect protecting the public going into a commercial structure. We have 2 staff members that are certified to do everything and 1 staff member that needs to attend one more class. The training is done by the State at no cost.

Commissioner Barela is concerned that five years from now this program will become a cost to the County. Will we have to hire someone to do the fire inspections because of this agreement. Mr. Clark stated that if it comes to that, we would terminate the agreement. Our goal is to make the commercial buildings safer for the residents of Otero County.

Commissioner Marquardt made a motion to approve the Memorandum of Understanding (MOU) between Homeland Security and Emergency Management, State Fire Marshal Division and Otero County Code Enforcement. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

4. Scheduled Citizen Communications:

a. Dean Hackett, Sheila Coca and Beth Lucero with the Otero County Fair Board to discuss updates of the Fairgrounds facility.

Sheila Coca stated they have a power point for the Commissioners to view the projects that have been completed and the different groups that use the facility for trainings, meetings, early voting and bus drivers training and many others.

Dean Hackett stated that they have received some estimates on the RV Dumping Station and they would like to discuss this with the Board. The Dump Station gets used regularly through the summer and some through the winter. There has been a water break that is under the concrete. One estimate to fix it is about \$560 and the other is about \$680. We have discussed closing the Dump Station and if we do, the Commissioners will be the first to hear about it from the public. The reason we have discussed closing it, because we get people coming with 15,000 gallon tanks on their trailers and they fill them with the water. We pay for the water and our bills have become a little extreme, especially during the summer. We are asking the Commission for some suggestions.

Commissioner Matherly stated that he didn't want to close the station, but he doesn't want to fill everyone's water tanks either.

We have considered putting in a coin meter, but they are very expensive about \$30,000 and it would probably get vandalized. The Fair Board has to raise about \$66,000 a month to keep everything going at the Fairgrounds. That is a very tall order for any non-profit to have to raise. Mr. Hackett stated that we wanted to get the Board's opinion on this matter before we went through the process of getting the water line fixed. There will be quite a lot of concrete that will have to be broken out.

Commissioner Marquardt stated that there is a need for this Dumping Station, but there has to be a way the public can pay for the water they are using. It's not the Fair Board's responsibility or the County's to pay for their water.

Commissioner Matherly asked Mr. Hackett if he could get together a proposal on the equipment. If we have a proposal, it can be submitted on the capital outlay plan to the State.

5. **Unscheduled:**

a. Barney Young with the Committee for Clean Government is here today to request an update on what the committee proposed in January. The proposal was about the Forest Service producing the endangered mouse. The committee wanted proof by video footage and documented by a Sheriff Deputy. They want proof the mouse exists or remove the fences that have been erected to keep the cattle out. We support the ranchers and the Goss Family and would like to have their herd returned to 553 head of cattle. The Commission needs to take some action on this situation.

Commissioner Marquardt stated that she will be going to Washington D.C. tomorrow for the National Association of County meetings. She requested to be on one committee, the Energy, Environment and Land Use Committee and she did that for the Ranchers.

b. Mary Martin stated that gaslighting is a term that refers to trying to convince someone we are wrong about something even when they are not. Gaslighting is the act of practice grossly misleading someone, especially for the ones that lie, deny and twisting reality to deceive and gain control. She went over the conversation that Mr. Mosley, from the Forest Service had with Commissioner Marquardt at the December meeting. Commissioner Marquardt asked who makes the ultimate decision on the size of the enclosures? Is it the Forest Service Supervisor, the District Ranger, or the Center for Biological Diversity?

c. Drenda Messer from the December meeting, Ms. Messer continued to read the conversation between Mr. Mosely and Bob Foxworth from Mary Martin's paper about the Forest Service.

d. Donna Turnbull thanked the Commission for letting them be involved and helping the Goss Family by making it public what the Forest Service is doing to their cattle. The actions of the Forest Service are preventing the distribution of the water for the cattle. Something has to change. She thanked the Commission for what they are doing.

e. Arnold Anaya stated that he has several issues to bring to the Commission. First, is to request that our Sheriff conduct informative, instructive seminars in a large venue in town to

address what he intends to do regarding upholding his constitution of oath, to defend and protect the 2nd amendment and our rights. Second, we request transparency in the unusual times by asking along with the regular scheduled recordings from the Sheriff, Jail, Roads that the County Treasurer, County Assessor and County Clerk provide monthly reports to provide information regarding their respective offices. Third, reminding the Commission that we have a vested interest in what Mr. Mosely is doing regarding the Ranchers situation and his plans to produce the mouse by March 1st.

f. Gwenna Rees stated that she has read that the Superintendent of the Alamogordo Schools, Mr. Moore has declared Alamogordo a very racist town. He has only been here 4 years. She is so angry.

g. Carolina Moreno stated that her and her husband have a place in Tularosa. They raise their own animals and food since they are Jewish and there are no Kosher shops here. Many of their animals have been killed and their equipment vandalized. No one will help them. Commissioner Matherly would like to speak to her after the meeting.

h. Kelly Goss shared a report prepared by the New Mexico State Range Improvement Task Force. It's titled End of Growing Season, Range monitoring on the Sacramento Allotment. Ms. Goss read the report.

6. New Business:

a. Discuss and consider sending a letter to the New Mexico Department of Health regarding Otero County Health Department's provision of vital records and customer service.

Commissioner Barela stated that she has a new grandbaby and there were problems with the Birth Certificate. On the Certificate it had marked that her grandson was a girl. Commissioner Barela went to the Health Office to ask what the processes were for vital records to get the Birth Certificate and how a mistake like this could be made. She was immediately yelled at and that she was making it political because they knew who she was. She told them that her constituents of Otero County will not be treated this way and she was here to investigate where the errors were happening so it could be fixed for future babies born in Otero County. Our attorney R B

Nichols arranged a zoom meeting with the Health Department with several department heads and they were extremely helpful. Commissioner Barela stated that she wants better service out of our Otero County Health Department.

Commissioner Barela made a motion to send a letter to the Otero County Health Department telling them we want the quality of services increased for the Otero County Health Department. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.

b. Request approval to schedule and advertise a public hearing for SRS Title III Funds.

Matt Clark, Emergency Services Director stated that a public hearing needs to be scheduled for expenditures of the SRS Title III money that we have used to do fire wise programs. Laura Doth stated that we have been doing these fire wise programs since 2016 and we always appreciate the support of the County Commission. In the past year of 2022 we put \$200,000 on the ground which represents 144 acres and have interacted with over 155 land owners. One of the nice parts of the projects that we do, is that we deal directly with private property. We can help them determine what makes a healthy forest and what makes a fire wise situation so that in an event there is a fire, their homes are as protected as possible.

Commissioner Marquardt made a motion to approve to schedule and advertise a public hearing for SRS Title III Funds to be held March 9, 2023 at 9:05 a.m. at the Regular Commission Meeting. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

7. Commission Discussion/Correspondence:

a. Commissioner Matherly stated that he had an opportunity to take a group from the County to the Prison Facility in Chaparral. He waited 4 hours yesterday to hear Senate Bill 172 on Migration. There was a large group there saying how bad people were being treated while in prison. There were no signs of that at the facility. If there was abuse the people in the prison would have come to us and told us they were being mis-treated. We are watching House Bill 21,

which is the Forest Service and banning Control Burns. There is a list available to flood the Legislatures with phone calls and emails. The things the Forest Service is trying to do is ridiculous.

b. Commissioner Barela stated that she attended the Soil and Conservation meeting and she actually enjoyed it. There is a lot to learn and they received a grant for Otero County and Lincoln County 4th graders. It is for paid field trips to National Parks. She wants to make sure that the Alamogordo Public Schools know about this, along with home schooled kids, Cloudcroft, Tularosa and Chaparral.

The Endangered Species ACT has a new rule, that the Forest Service is no longer going to build fences, they are going to require our ranchers to build the fences to keep our endangered species safe. This is just another hit on our ranchers and an expense that they don't need.

Commissioner Barela has been fighting against CRT in our schools for 3 years. The County Commission passed a Resolution that we didn't support CRT several years ago. The video that was played shows Dr. Moore, the Alamogordo School District Superintendent talking to an individual saying how racist Alamogordo is.

c. Commissioner Marquardt stated that she attended the New Mexico Association of Counties Legislative Conference in Santa Fe. She attended a meeting at the Chamber of Commerce and she is leaving today for Washington to attend the National Association of Counties meetings. She is hoping to making some connections that can help us fight the battle with the Forest Service.

8. County Attorney Report:

a. R B Nichols stated that he attended the New Mexico County Legislative Conference in Santa Fe. He had meetings with the Attorney Affiliate which was very productive and useful to make connections. He received a letter from the Department of the Army legal office who is handling our claim on the 506. They are requesting additional information on the information that has been submitted. The questions have been forwarded to Tom Porter since he is still working on the project to get the cost of repairs and what we can prove is actual damage from

the military vehicles versus the cost of the standard road repair. We need that in order for the claim to go forward.

Mr. Nichols hasn't received a response from the Chief Forester with the Forest Service on the letter we sent with three other counties. He is going to follow up with Margaret Byfield to discuss strategies and options for going forward. Commissioner Matherly requested that I start working on a letter that encompasses these other issues of mismanagement of the Forest and talk to Margaret Byfield about incorporating this into our next move.

Code Enforcement filed the first criminal complaint. The process has been worked out and we can start on other cases.

An assistant was hired for Mr. Nichols and he is very excited to have the help. She has a tremendous amount of experience working with the local courts and the system.

Mr. Nichols has spent a lot of time looking into Senate Bill 172, which prevents local governments from contracting with the Federal government, essentially ICE to run Detention Facilities. If this bill passes we will be forced to end our contract with ICE and the Processing Center in Chaparral will shut down. We can look at re-purposing it for MTC to house other federal or state prisoners. This will require considerable renovations and cost that the County doesn't have. It was designed for Immigration Court Rooms, offices for Federal Attorney's and housing of the detainees. He toured the facility with Commissioner Matherly and observed a very clean facility, professional service and the migrants detained there were treated with dignity and respect. Without this facility, where are these individuals going to go. Will the local communities be able to handle them or will they be a burden to them for medical, housing, food and resources. Mr. Nichols has spoken with the attorneys that are behind this bill and they assured him that they have smart phone monitoring devices to track them and to ensure that they come to their hearing.

Chuck Andres from La Luz stated that we are at war with Dr. Moore. It's very disturbing and he is asking the parents to take a stand for our kids and grandkids. This situation is very disturbing with the School Superintendent. He thanked the Commission for everything they are doing to help fight the CRT and other things in our school systems.

There being no further business before the Board, the Chairman adjourned the meeting at 11:30 a.m.

APPROVED:

Vickie Marquardt, Chairman

ATTEST:

Robyn Holmes, County Clerk