

Regular Meeting

September 11, 2024

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., September 11, 2024; 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
- R.B. Nichols County Attorney
- Julianne Hall Financial Director
- Sylvia Tillbrook Executive Assistant
- Brittany Pulido Deputy Clerk

Roll call was taken as follows:

- Vickie Marquardt Here
- Gerald Matherly Here
- Amy Barela Here

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

1. Proclamation:

- a. Sgt. Willie Estrada Day**
- b. Constitution Week**

Commissioner Marquardt read each Proclamation, respectively.

2. Department Reports:

a. David Black, County Sheriff stated that for August 2024, the Sheriff’s office responded to 2,450 calls for service. This generated 257 investigative reports, 61 traffic crash investigations, 62 arrests, 5 warrants, 105 traffic citations issued, and served 431 subpoenas for the courts. Sheriff Black reported that they responded to 71 calls for service in Tularosa this month which is drastically less than previous months. Narcotics division had 9 search warrants, 7 arrests, 1 agency assist, 51 case reports, 3 checkpoint cases, 2 fugitives apprehended, and 2 jail possession cases. They seized: 5 vehicles, 5 firearms, 82.19 grams of meth, 9.8 grams marijuana, 25 prescription pills, 1.5 grams cocaine, 3.1 grams fentanyl powder, and 17,965 fentanyl pills; for a total of about \$278,000 worth of illegal narcotics. Special events included: backpack giveaway in Chaparral; D.A.R.E. program started at La Luz, Holloman, Cloudcroft, Yucca, and Sunrise

(Chaparral) elementary schools; THRIVE breakfast; coffee with a cop at Albertson's; D.A.R.E. conference in Ruidoso; and Walmart donated \$2000 to the Shop with a Cop program. In training, they are busy keeping up with annual and bi-annual training, as required. They are also implementing a new training program, through the NM Counties Association, that will help update policies and procedures. In manning, 4 deputies in FTO program; 3 recruits are at the academy in Hobbs; and 6 possible recruits in the background phase. There are currently 5 open deputy positions. The Sheriff's office recently put 2 new Tahoes into rotation, and they were awarded a grant for \$160,000 to be used towards new community service vehicles.

Sheriff Black made a statement on the Otero County Sheriff deputy involved shooting on Elijah Hadley. Sheriff Black stated that there are 3 agencies investigating this incident and that the Sheriff's office is fully cooperating with the investigation.

Commissioner Matherly stated that he was made aware of gang presence on Luna Street in Chaparral. He would like a deputy, who is familiar with gangs and gang signs, to go see what is going on. We need a plan to combat the gangs.

Commissioner Marquardt asked Sheriff Black to discuss his recent trip to the border.

Sheriff Black said they went to Winterhaven, California which is right on the border with Yuma, Arizona. He said he has visited 7 different spots on the border, and each spot has very similar issues regarding illegal migrants.

b. Hilton Chapman, Deputy Director, Tularosa Basin Regional Dispatch Authority (TBRDA) stated that for August 2024, they had 2,800 911 calls, 1,300 officer line calls, and 9,800 admin line calls for a total of about 14,000 total calls. They currently have 3 traveling dispatchers helping out, until they get their staffing levels up. John Barney is in Ruidoso attending the Affiliate Directors Conference. Last month, 3 employees attended the National APCO Conference in Florida. Mr. Chapman stated that they just started the carbine system which is a cloud based call handling system. They are moving away from Motorola call works, to this new system, which offers a call triage system that uses geolocations to combine calls received, for the same incident; this program also has live translation and transcription. Last month, Alamogordo Police Department came for a tour and detailed explanation of the radio system. They just launched a new county wide alerting system, Genesis. TBRDA started creating live 911 dispatch videos; they plan on creating videos with all of our local agencies. In staffing, they have 1 daytime supervisor position and 6 dispatcher positions open. In training, 3 employees completed the PST Academy.

c. Matt Clark, Emergency Services Director stated that for August, Code Enforcement had 3 solid waste cases, 1 illegal dumping, open burns and vehicle complaints. OES responded to 16 fire and 16 EMS calls. They completed a pre-plan under fire inspection. They opened 15 new cases, completed 36 follow ups, closed 9 cases, and did 1 fire investigation. Mr. Clark stated that 21 Quail Trail has made significant improvements; 80 2nd Street will be burned; Mike Court was filed in court and the owner did not show, a warrant has been issued; 17 Glenn, Tractor, White Oaks, and Boles are scheduled for a clean-up in conjunction with TRIVE's Day of Caring. The slash pit is still open; they've had 155 loads come in and 8 loads go out. The volunteers responded to 239 calls; 15 fire and 159 EMS. OES participated in the Heritage Day, they provided first aid and were recruiting volunteers.

Commissioner Matherly said that 1st Street in Boles Acres is getting worse. He is frustrated that this issue has been ongoing for years.

Jacob Bock stated that they are having issues e-filing court cases. He is actively working to get this issue figured out. Mr. Bock said he thinks Code Enforcement should be within the Sheriff's office because they are limited to what actions they can take since they are not certified law enforcement.

Mr. Nichols stated that they are working with Code Enforcement to resolve the issues, but the court system is a slow, drawn out process. He said that this property is one of the properties that will be addressed with the THRIVE Day of Caring.

Commissioner Matherly also asked about the Florida Street property.

Mr. Bock said that Florida Street is now a city issue.

Commissioner Barela stated that she has had conversations with Sheriff Black, Undersheriff Jett and Mr. Nichols about moving Code Enforcement back to the Sheriff's office.

Mr. Nichols said that the county needs to make stricter ordinances. The county would also have to increase the Sheriff's office budget to account for 5 additional officers and vehicles.

d. Tom Porter, Road Superintendent said that in August, the county had 4 major rain events that led to flooding which led to major damage on Chapel, Three Rivers, Round Mountain, Bent, Rattlesnake, Diablo, Sabinat, and the Timberon area. They are finishing patching on Mountain Meadows for the final chip seal of the season. They completed culvert repairs on Owen Prather, 506, Diablo, F052, and F001. They hauled material on Owen Prather, Chaparral Road, Mountain Meadows, Sabinat, Timberon, Heather Lane, and Three Rivers Road. They did patching in Sixteen Springs, Timberon, Mountain Meadows, and the Chaparral area. They have been mowing throughout the county. On Riata Road, they had to fix a section of road that was washing out.

e. Trent Parker, Project Manager stated that CHINS Phase III is complete, Phase IV roof replacement is being designed and hoping to start by the end of the year. The Road Shop building underground plumbing is done and septic system is being installed; currently pricing the frame and finish work for the offices and restroom. The Fairgrounds PA and surveillance system is installed, training will be done this week. Dungan fire station is completed, now doing additional dirt/gravel work to improve the approach into the building. This month, they finished the retaining wall for the new addition at the High Rolls Volunteer Fire Department expansion project; waiting for the CID inspection to start concrete. The Sixteen Springs water storage tank is going up, hoping to be finished in 2 weeks. James Canyon and Upper Cox Canyon pump houses are being priced out. The Treasurer's office remodel is complete besides waiting on a piece of glass for the service window.

f. Nena Sisler, Correctional Services Director stated that the average population for August was 177. In house today, there are 140 inmates; including 123 males and 18 females. They have 10 at Otero Prison, 1 at Hudspeth, 7 on treatment furloughs, 4 out of county for court, 3 at Lincoln County, 4 juveniles- 3 at Dona Ana and 1 at Bernalillo. In staffing, they currently have 9 full time detention officer positions open.

g. Forest Service- There is no forest service report today. Commissioner Barela stated that Ron Maes was extremely helpful attaining easements for the power line for the electric co-op. The easements granted 100 feet on each side to clean the tree lines that could fall on the power line. Commissioner Barela said that this easement was not granted at the last minute, and the forest service has denied access to the easements. Commissioner Barela said she is concerned for the fire danger this poses.

3. Consent Agenda:

Commissioner Marquardt read Consent Agenda items #1- #19.

Commissioner Barela made a motion to approve Consent Agenda items #1- #19. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

4. Unscheduled Citizen Communication:

a. Evan Lambert thanked Sheriff Black for addressing the incident with the Otero County Sheriff deputy involved shooting of Elijah Hadley. He wanted to announce that the 2024 Southeast New Mexico Food and Housing Summit was a success. Congressman Gabriel Vasquez and State Representative District 51 candidate Ashlie Myers, participated in a candidate forum. Mr. Lambert stated that our county has organizations that offer public gardens for the community with free harvest, a public tool library, materials bank, and educational programs for at risk youth teaching them trades.

b. Cheri Moore is the President of the La Luz Mutual Domestic Water Consumer Association; she would like to discuss: flooding, culverts, road erosion, speeding, mowing, and the fire station. She said a bar ditch needs to be placed from Section Road South and on the East side of La Luz Road, to keep heavy run off from crossing over La Luz Road and flooding the alleys; and on the North side of Bonito and Godby Lane. There is a culvert on Bonito Boulevard and La Luz Road that needs replaced.

c. Jorge Dominguez, via Zoom, stated that he is a staff attorney at Las Americas Immigrant Advocacy Center. He is encouraging Otero County to end their contract with MTC at the Otero County Processing Center.

d. Aracely Flores-Ramirez, via Zoom, stated that she is an intern with Las Americas Immigrant Advocacy Center. She read a statement from a former detainee about the harsh condition and treatment she received at the Otero County Processing Center.

e. Diana Nevarez Ramirez, via Zoom, is a legal assistant with Las Americas Immigrant Advocacy Center. She shared a translated statement from a former detainee, who described a harsh and traumatic environment at the Otero County Processing Center.

f. Alondra Reyes, via Zoom, is the Policy and Partnerships Manager at New Mexico Immigrant Law Center. She read a translated statement from a former detainee regarding the inhumane conditions and treatment, within the Otero County Processing Center. She urged the termination of the ICE contract.

g. Allegra Love, via Zoom, is an attorney with Las Americas Immigrant Advocacy Center. She read a testimony provided by a mother of a former detainee at the Otero County Processing Center, detailing psychological and physical abuse, and humiliation.

h. Casey Mangan, via Zoom, is an attorney with New Mexico Immigrant Law Center. He spoke before the Board of Commissioners in July 2024 about the conditions at the Otero County Processing Center. Mr. Mangan is here to say that there have not been any changes at the center. He urges Otero County to not renew the contract with ICE/MTC for 2025.

i. Itzayana Banda, via Zoom, is the Communications Manager with the New Mexico Dream Team, and the daughter of a former detainee at the Otero County Processing Center. She discussed the terrible conditions at the processing center. She is requesting that the facility be closed and to end all contracts.

5. New Business:

a. Request approval of Resolution #09-11-24/113-09 supporting the New Mexico Counties 2025 Legislative Priorities.

Commissioner Marquardt explained that every year the New Mexico Counties Board meets to determine the priorities to fight for in the legislature.

Commissioner Barela asked Commissioner Marquardt if the animal control issue made the list of priorities.

Commissioner Marquardt said that the animal control issue did not make the priority list for 2025.

Commissioner Barela made a motion to approve Resolution #09-11-24/113-09 supporting the New Mexico Counties 2025 Legislative Priorities. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

b. Request approval of Resolution #09-11-24/113-10 Disposition of Personal Property and Fixed Assets in accordance with State Statute, through Govdeals.com, an online auction service.

Commissioner Marquardt stated that Commissioner Barela would be abstaining from this vote.

Commissioner Matherly made a motion to approve Resolution #09-11-24/113-10 Disposition of Personal Property and Fixed Assets in accordance with State Statute, through Govdeals.com, an online auction service. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed 2-0 with Commissioner Barela abstaining.

c. Request approval of Resolution #09-11-24/113-11 expressing Otero County's appreciation of THRIVE's annual Day of Caring and Commitment.

Mr. Nichols stated that through this event, the county can get around the anti-donation laws. The clean-up day is scheduled for Friday, September 20, 2024.

Stephanie Hale, Executive Director of THRIVE, stated that all volunteers must sign a waiver. She said they are looking for more volunteers to help with this project.

Commissioner Marquardt made a motion to approve Resolution #09-11-24/113-11 expressing Otero County’s appreciation of THRIVE’s annual Day of Caring and Commitment. The motion was seconded by Commissioner Barela. A vote was taken and the motion passed unanimously.

d. Discuss Keep Otero County Beautiful Ordinance #23-03 status.

Mr. Nichols stated that we developed this ordinance, but they only have 2 volunteers to serve on the board. They need a total of 5 board members to be able to move forward with a committee.

e. Request approval to set property tax rates for 2024 Property Tax Year.

James Bowman, Otero County Assessor, stated that they are working to finalize tax rates for the 2024 season. The property tax rate approval, by the Board of Commissioners, is required by state statute.

Commissioner Barela said that she spent time with Mr. Bowman, and he explained that the discrepancy between neighboring properties and substantially differing valuations. They are working to make a fair based property assessment. She said that this will raise taxes, and although she does not like to raise taxes, in the end, the value of property will increase.

Commissioner Marquardt made a motion to approve property tax rates for the 2024 Property Tax Year. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

f. Request approval for two additional contracted dispatchers through getResQ911 in the amount of \$120,000.

Mr. Chapman stated that these funds are coming out of the TBRDA budget.

Commissioner Marquardt made a motion to approve two additional contracted dispatchers through getResQ911 in the amount of \$120,000. The motion was seconded by Commissioner Barela. A vote was taken and the motion passed unanimously.

g. Request approval for \$340,000 for a new Computer Aid Dispatch (SmartCop) system.

Mr. Chapman stated that their current system is deficient and each addition integration needed is an additional fee. The SmartCop system is cloud based and integrates with the detention center, warrants, Sheriff’s office, and the Alamogordo Police Department. This fee is for the first year and based on who opts in for the new system.

Commissioner Barela asked if the City of Alamogordo will incur half the cost with Otero County.

Mr. Chapman stated that if the Alamogordo Police Department chooses to switch to SmartCop, then they would absorb some of the cost.

Commissioner Matherly stated that the current system was highly recommended by Sergeant Emery and John Barney. He said the county has spent a lot of money on their current system, and now they want a new system.

Mr. Chapman stated that their current system was purchased before TBRDA was formed.

Commissioner Barela asked Ms. Hall if the county had the money to pay for this new system.

Ms. Hall stated that we currently bill the City of Alamogordo for their 50% portion quarterly. However, the city has not yet agreed to the new system, so the county would be responsible for the full amount.

Commissioner Marquardt thinks it would be a good idea to table this agenda item until we know who is going to opt in and help cover this expense. She does not want the county to absorb the full cost, and would like the city to decide if they are in, before the board makes a final decision. They will readdress this issue at the next regular commission meeting.

Commissioner Barela made a motion to table the approval for \$340,000 for a new Computer Aid Dispatch (SmartCop) system. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

h. Discuss and consider whether or not Otero County should consolidate Otero County Volunteer Fire Departments.

Mr. Clark stated that there were 3 meetings held to discuss this issue. He stated that this consolidation is still 100% voluntary. He said that departments have spoken with insurance companies that said they do not look at ISO ratings, while some do look at these ratings in regards to insuring homeowners. Mr. Clark stated that he goes by state statute, which funds all of the fire departments by their ISO ratings.

Mr. Clark said that some departments want to start the consolidation process, including: Alamo West, Boles Acres, Far South, Oro Vista, Bent, Burro Flats, Dungan, Jack Rabbit Flats, La Luz, James Canyon, 16 Springs, Mayhill, Sacramento Weed, Sunspot and Timberon. High Rolls and Pinon are unsure about consolidating.

Mr. Clark said that the next steps would be drawing up resolutions and district lines for approval from the Board of Commissioners, then send to Santa Fe for their approval.

Mr. Clark stated that volunteer recruitment has been a major issue for the departments. He said that they updated the volunteer fire department website to give all department information and OES actively recruits whenever they are at events. Mr. Clark says he has done radio spots and they did not make any impact.

Commissioner Matherly asked what happens if a department chooses not to consolidate and their ISO rating gets worse, what happens to that department and community.

Mr. Clark stated that in that case, the community would have 6 months to come up with a plan to fix the ISO rating. If ISO believes the issue is fixable, then they would reevaluate after 6 months. If the issue is not fixable in the 6 month period, then the community would have to decide whether they want to shut down the department or be absorbed by another department. Mr. Clark

stated that in 2013 or 2015, the Upper Cox Canyon department received the highest (worst) ISO rating of 10; this department was absorbed by James Canyon fire department.

Commissioner Matherly said he wants the departments to consider what is best for the county and community.

Commissioner Barela clarified that these are all volunteer fire departments and the reason we are considering consolidation is because of the lack of volunteers. We are trying to merge fire departments in order to get our ISO ratings up and work together.

Mr. Clark said that with consolidation, there will be a large district, and stations will have assignments that get toned out for each specific department location, depending on the dispatch call.

Commissioner Barela asked how many volunteers are required to fill all volunteer positions.

Mr. Clark said that there are 225 volunteers needed, about 12 for each department.

Commissioner Barela stated that in the plan Mr. Clark submitted, he would like to hire a Deputy Chief and 3 District Chiefs.

Mr. Clark stated that the district chiefs would be over multiple districts that would take care of reporting, PERA, and applying for grants; they would handle the paperwork that some of the chiefs are not keeping up with. Mr. Clark also said that each department should not have to purchase as much equipment because assets can be moved between the “pooled” department.

Commissioner Barela stated that she is under the impression that we lost volunteers because of qualified immunity. She wants to know if there is anything we can do to show support for our volunteers.

Mr. Clark stated that when the qualified immunity came out, they met with New Mexico Counties and the county attorney, and asked what the ramifications are for the volunteers. Mr. Clark was assured that the county has to protect the volunteers. The only way they would go after the volunteers would be after the dust had settled from the lawsuit, because they had been deemed to have done something malicious. If the actions were malicious, then they would lose the protection of qualified immunity. As long as the volunteers were following their SOP’s and SOG’s, there is really nothing to worry about. Mr. Clark says that he tried spreading that message, but it fell on deaf ears, resulting in the loss of volunteers.

Commissioner Barela asked how the consolidation of departments will affect the ISO ratings of the new district departments.

Mr. Clark stated that currently the lowest ISO rated departments are Timberon and Mayhill, whose ISO ratings are at a 7. He said that with consolidation, until they get their new inspection, all departments will be funded at an ISO class 5. After the inspection, they get a new grading for the ISO rating, and he said there is no reason to expect the change in the overall ISO.

Commissioner Barela wants to focus on attracting/recruiting volunteers, she said she has been looking over the budget with the help of Ms. Hall, and there is \$80,000 of extra money that has rolled over from last year. She would like to give each department \$500 to spend on recruitment activities. The department would have 90 days to recruit 5 volunteers. After the 90

days, if the recruits are still volunteering, then that department would receive \$1000 for recruitment/retention. She would like to see the money spent on t-shirts, hats, food for fun events, etc.

Mr. Clark says that is a potential fix for the volunteer issue and then relying on auto aid. He said it is not a guaranteed fix, though. He said that without new people moving into the community, the community is not growing, therefore, no resources for additional volunteers.

Commissioner Barela thinks that the people who are already here and invested in the community are the people we need to focus on recruiting for volunteers.

Mr. Clark stated that this is something the chiefs of the departments need to be doing and should be doing already. He is not sure that this will help with volunteer recruitment.

Commissioner Barela stated that she is concerned we are taking away local control from each individual department. This way, we can ensure that everyone's interest are being met.

Mr. Clark said that each department will meet together to build: the bylaws, SOP's, and SOG's for that new department.

Commissioner Barela asked Mr. Clark what is the major benefit of consolidation?

Mr. Clark said the major benefit is roster growth, meaning that when a person shows up on scene, they will count as a responder, under the ISO grading system.

Commissioner Barela is concerned about the future, and the cost that comes at the counties expense, meaning hiring more staff for the fire departments.

Mr. Clark stated that there are grant opportunities that would help ease the expense of this transition.

Commissioner Matherly stated that it seems like the majority of the fire departments have already started to work together, even though they haven't technically consolidated. He also stated that the county is doing the same grant transition, currently, with the Sheriff's office.

Commissioner Marquardt said she would like to see the departments consolidate and actively work on recruiting volunteers.

Mr. Clark said that National Fire Prevention Week is coming up on October 6-12, 2024. The New Mexico Fire Marshal's office has chosen Alamogordo to be their big push; this event will be on October 12, 2024, the same day as the New Mexico Food Truck Battle Round 3.

Walt Coffman, a resident of Weed, NM, stated that he has 20 years of experience with fire departments. In his opinion, he would like to see the county really focus on recruiting. He believes that redistricting will reduce volunteers but help ISO ratings. He is concerned about response time with redistricting because now responders will have to travel further distances. He says his solution would be to have fire department chiefs personally contact new district residents and ask them to volunteer. He also wants the entire county staff to focus money and time, on recruitment efforts. Mr. Coffman also said that acknowledgement of the services of the volunteers would go a long way.

Roberta Hanneman has been working with the fire department since 1988, and is the Assistant Chief at Burro Flats Volunteer Fire & EMS Department. She said that if we move forward with consolidation, we need to do it as a united front. She is for the consolidation, and believes that training will improve. Ms. Hanneman helps train volunteers in fire and EMS. She said that volunteers have changed; volunteers now, tend to be retired people.

Jennifer Shaffer, stated that EOC is actively working on recruiting volunteers. She said that they do get people who show interest, but then they see the time commitment required and they lose interest. She said she is planning on doing school career days; they use Facebook, and are regularly doing radio segments. Ms. Shaffer said the department chiefs need to be actively recruiting for their department from within their community.

Commissioner Barela stated that she wants a set structure when electing a new chief for the district; she is suggesting a rank choice election be held, so that all departments are equally represented. She also wants to implement a plan for volunteer recruitment, support, and recognition.

Cody Whelchel, Chief at Mayhill Volunteer Fire & EMS Department, stated that Sacramento Weed Volunteer Fire & EMS Department and Mayhill have been working together since the consolidation talk started. They have chiefs meetings and meetings where all the members come together. He said they have invited Pinon to join but they have not made any meetings. Mr. Whelchel said that he is not in this to gain a title of chief, he and Mike Jones, Chief at Sac/Weed, chose to do this for their community. He said that the Mayhill department does recognize their volunteers for their dedication, and they also engage with their surrounding community.

Commissioner Marquardt made a motion to consolidate Otero County Volunteer Fire Departments. The motion was seconded by Commissioner Matherly. A vote was taken and the motion passed unanimously.

i. Discuss and consider approval to explore and negotiate a potential economic development lease agreement between Otero County and the New Mexico State Land Office, for the operation of an outdoor recreation area North of Tularosa.

Commissioner Barela stated that she was asked by Representative Townsend to look into this opportunity. She stated that Commissioner Matherly has been speaking with the New Mexico State Land Office about this, as well. Commissioner Barela said that this racetrack is special to her and she was there for ground breaking when it was a round track. She said the track helps give kids something to do and it was a family setting. The racing events brought money into our community. Commissioner Barela contacted Michael Sage with the New Mexico State Land office. She was told that the county has the option to take over the 80 acres of land and sublease it out, without the county being held liable for any unfortunate events that could happen. Commissioner Barela would like a nonprofit to come in and run the track.

Mr. Nichols stated that he has not yet prepared a lease, because the New Mexico State Land Office has started the lease process with another entity.

Rily (Ellinger) Castloo, joined by George Ellinger, said she has been a participant at the race track since 1995. In 2017, she started helping to take over management of what is now known

as Tulie Motocross. They have submitted an application for this land lease. Ms. Castloo stated that the county could benefit from this land lease, even if it were not used as a track.

Commissioner Matherly stated that if this goes to a vote, he will abstain from voting because he has had prior conversations regarding this issue.

Mr. Sage, via Zoom, is the Assistant Commissioner for Commercial Resources, with the New Mexico State Land Office. Mr. Sage is joined by other New Mexico State Land Office staff, including: Conrad Kegel, Manager of the Business Leasing Bureau; Jim Bordegaray, Director of Commercial Resources; and Chris Graeser, Assistant General Counsel, all present via Zoom.

Mr. Sage stated that the New Mexico State Land Office makes money by leasing our land for economic development and revenue generation. He said that with all their commercial operations, a business lease is required. Any business lease over 5 years requires a public bid, which means you must pay for an appraisal, and all advertising costs. Once the business lease has expired, the lessee must return the land back to the original state. The land office has recently added an economic development lease, for cities and counties to pursue economic development projects, often for the private sector. These leases can go out 40 years.

Mr. Sage stated he has met with Commissioner Matherly and toured the land in Tularosa. They then realized that in order to reclaim the land to the original state, it would require a lot of work, estimated cost is in the 6 figures. Commissioner Matherly did not want the tax payers to incur that expense. At this time, Commissioner Matherly felt that if there was a lead in the private sector, then that would be the option of the county.

Mr. Sage stated that in August 2024, he was contacted by Commissioner Barela about this land. At this time, Mr. Sage indicated that their office was already working with multiple applicants and working to finalize a business lease. Commissioner Barela also stated that she supported a private sector taking over this land for the purpose of a track for the community.

Mr. Bordegaray stated that they have received several applications, some are local and some are from out of state. They are currently well into the process of one lease application. He stated that their office does not necessarily renew leases, they often reissue leases assuming that the party has acted in good faith on site, complied with the terms and conditions of the lease, and have maintained their financial standing with the New Mexico State Land Office.

Mr. Nichols asked if there was any chance of their office starting a lease with the county, while they were working through their current applications.

Mr. Bordegaray stated that they are currently well into the process with this new applicant, and he does not foresee this application not moving forward. He said he thinks it would be a waste of time for the county to even start the lease process, at this point. Mr. Bordegaray stated that they should know by the end of the month, whether this lease is going to come to fruition or not.

Commissioner Barela stated that Otero County is ready to get this track back open for business. She said the vision for the county is for a non-profit to run this track and reinvest back into the community.

Mr. Sage stated that the original lease included 640 acres of land; through this current process, they are shrinking this business lease to approximately 80 acres. He said there is now a

possibility to lease the adjacent 560 acres. He said there is an option for the county to lease the 560 acres and create complimentary activities to support the track.

Mr. Nichols asked if the county did lease the land, and then subleased it out, would we be able to accept “in-kind” payments for the rent?

Mr. Bordegaray stated that they do accept payments in lieu, but it would have to be approved first. They would have to see what the benefit would be for the New Mexico State Land Office and their trust. They are required to raise money for the beneficiaries of the trust.

Mr. Graeser stated that they are required to attain true value for the land. He said that there are instances where they accept services, but those services are directly related to maintenance, improvement, or protection of those lands. They are not allowed to accept services that are directly related to the community, in lieu of rent payments.

Commissioner Barela asked how much the rent was going to be for the land.

Mr. Bordegaray stated that the ball park figure for the rent is beginning at about \$6,000 a year, increasing over the term, with an annual escalation, to around \$11,000.

Commissioner Barela asked if that number changed government to government?

Mr. Bordegaray stated again that they are required to get value for value that is to the benefit of the state land trust.

Mr. Nichols asked what is distinguishable between a private entity leasing the land and Otero County leasing the land and subleasing the land to a private business. He wanted to clarify that any private business subleasing from the county would still have to do the entire application process and pay the same amount of money. The only difference would be that the county could potentially execute a 40 year lease through the new economic development provision.

Mr. Bordegaray stated that Mr. Nichols was correct. He said the state would require an application from the county, and the entity that would be subleasing. He stated that the sublease would be subject to the approval of the New Mexico State Land Office, as well.

Mr. Sage stated that when he was first speaking with Commissioner Matherly, in April 2024, they had 2 entities showing interest but did not have a complete application. This was when Commissioner Matherly stated that the county would not be interested in leasing the land because of the high cost of reclamation. Then, they received an application, and started moving forward in the process, prior to Commissioner Barela reaching out, expressing interest. Mr. Sage said that if this application does not materialize, then the county would have the opportunity to apply.

Commissioner Barela stated she is interested in the county applying for the lease and subleasing out to a private entity. She wants the county to set the guidelines for the entity they want to run the motocross track. She would like a non-profit that will reinvest into the community, a good reclamation plan, and business plan. She wants to get this going as soon as possible.

Commissioner Matherly stated that he understood that there were 3 applicants. He is under the impression that one of the applications is not being considered.

Mr. Sage stated that they have only received 1 complete application; the other applications they received were not complete applications.

Mr. Bordegaray stated that their staff has been working with the applicants for months and months, trying to piecemeal an application together. He said the applicants are not answering direct questions. One of these questions is related to the payment of a hold over rent which was incurred by the previous operators of the track, operating in trespass with no lease.

Commissioner Barela suggested holding a special meeting on September 26, 2024 to get an update on the land lease situation and if there has been no movement, she wants a lease ready to sign.

Mr. Bordegaray said that they would not have a lease ready until they have an approved application. He said the county could start the application process, but the land office is still going forward with their current applicant. He suggested waiting before they start the application process; they are expecting this application to be processed in a month.

Commissioner Matherly said that we would like to be notified as soon as possible about the status of the application, and if they are preparing a lease for their current applicant.

George Ellinger stated that there are currently cattle grazing on the land, so someone has a grazing lease and the state is making money on the land.

Commissioner Barela asked if it was their application that was incomplete.

Ms. Castloo said that the state had sent them a supplemental packet, which required a large sum of money. She stated that they were associated with a partner, who removed Mr. Ellinger's ownership, in an illegal manner. She said they cannot pay at this time because this issue is in the hands of the law. When the lease lapsed, the other owner did not renew the lease, therefore the state wants the past due rent.

Mr. Ellinger said he didn't mind paying the back rent, but the state is also requiring that they pay 3 years rent up front, which is increasing by \$1000 each year.

Commissioner Barela stated that the application they submitted is under their non-profit and not associated with their original Tulie Motocross. She said that hypothetically, none of the back rent applies to them.

Ms. Castloo said she understands where the state is coming from in a business point, they had 2 applications from former partners who are fighting, and then another application from a totally separate entity. She is worried that the new applicant won't benefit the county.

Commissioner Barela said that we will wait until the end of the month and see if the New Mexico State Land Office has signed a lease, and go from there.

6. Commission Discussion/Correspondence:

a. Commissioner Matherly stated that he has been talking with Mr. Sage, trying to work out the issue with the land contract. He has been working with Mr. Clark, on a subdivision with FEMA issues. Commissioner Matherly said he spent time talking with Mr. Clark about the fire department consolidation issue; he said people are not volunteering, but they also aren't applying for paid positions. He attended a meeting in Chaparral. The Chaparral area is still growing; they have a new Allsup's coming and a major intersection will be changing.

b. Commissioner Barela attended the Kid's Inc. fundraiser, and said it was a very nice event. She also attended several fire department meetings, electric co-op meeting, and emergency planning meeting. Commissioner Barela toured the jail. She attended the La Luz Water Department meeting where they discussed the flooding issues on Valley View Road.

c. Commissioner Marquardt volunteered at the Otero County Heritage Days. She attended a Zoom meeting with the Counsel of Foreign Affairs; ceremony at the Inn of the Mountain Gods to recognize the volunteers that helped with the fires; TBRDA Board meeting; and Environment, Energy and Land Use meeting for the National Association of Counties. Commissioner Marquardt is heading to the state fair in Albuquerque to set up and work the Otero County booth.

7. County Attorney's Report:

Mr. Nichols attended the BLM conference which was about supporting and increasing recreation on public lands. He met with a representative from the YMCA, and would like to form an exploratory committee to see if we could have their services here. The YMCA offers opportunities and programs that would be beneficial to our community.

There being no further business before the Board, the Chairman adjourned the meeting at 2:07 p.m.

APPROVED:

Vickie Marquardt, Chairman

ATTEST:

Robyn Holmes, County Clerk