



BOARD OF COUNTY COMMISSIONERS OF MORA COUNTY

Special Meeting – September 11, 2024 – 9:00 a.m.

Mora County Commission Chambers – 1 Courthouse Drive, Mora, NM

1. Call to Order

Chairman George Trujillo called the meeting to order at *9:01 a.m.*

2. Pledge of Allegiance and Salute to the Flag of the State of New Mexico

All in attendance recited the Pledge of Allegiance and saluted the Flag of the State of New Mexico.

3. Roll Call

Deputy Clerk Vivian Trujillo polled the Board: **Commissioner George A. Trujillo** – Present; **Commissioner John H. Trujillo** – Present; **Commissioner Veronica M. Serna** – Present. A quorum is present.

4. Approval of Agenda

Commissioner George Trujillo stated we need to table item 5 and 6.

Interim Manager Clarence Aragon stated I recommend you approve the agenda as presented.

Commissioner John Trujillo made a motion to approve. **Commissioner Veronica Serna** seconded the motion. *All in favor. Motion carried.*

5. Discussion/Action: Approval of Interim County Manager Contract

Item 5 was tabled during item 4 Approval of Agenda.

6. Closed Session: Pending Litigation involving the John Paul Vigil matter; Threatened Litigation involving HPCC Claim

Commissioner G. Trujillo stated we'll go to item 6 Closed Session to discuss pending litigation involving John Paul Vigil matter, threatening litigation involving HPCC claim. Is there a motion to that effect?

Commissioner J. Trujillo made a motion to go into Closed Session. **Commissioner V. Serna** seconded the motion. *All in favor on a roll call vote: Commissioner John Trujillo - Yes.*

Commissioner Veronica Serna - Yes. Commissioner George Trujillo - Yes. The Commission entered closed session at *9:04 a.m.*

Commissioner G. Trujillo asked for a motion to reconvene Regular Session.

Commissioner V. Serna made a motion to reconvene Regular Session. **Commissioner J.**

Trujillo seconded the motion. *All in favor on a roll call vote: Commissioner John Trujillo - Yes.*

Commissioner Veronica Serna - Yes. Commissioner George Trujillo - Yes. The Commission reconvened Regular Session at *11:35 a.m.*

Item # 4 Approval of Agenda readdressed - Commissioner G. Trujillo stated I need a motion to correct my mistake. I meant to table item number 5 and 7. Do I hear a motion? **Commissioner**

J. Trujillo made a motion. **Commissioner V. Serna** seconded the motion. *All in favor on a roll call vote: Commissioner John Trujillo - Yes. Commissioner Veronica Serna - Yes.*

Commissioner George Trujillo - Yes.

Commissioner G. Trujillo stated after long Executive Session, no action was taken or decisions made *for the record* we had people from Singleton Schriber team from Thompson and Michael Martinez and Robert from Singleton also were present together with some Thompson people John Kropog.

7. Discussion/Action: Resolution Designating Start and End Point of B-006 Pursuant to Judge Jeffrey Shannon's Order involving Litigated Matter styled: John Paul Vigil, Plaintiff v. The Board of County Commissioners, et al., Defendants, and Agua Pura Mutual Domestic Consumers Water Association, Intervenor, D-430-CV-2022-00008. (Fourth Judicial District Court, Mora County)

Item 7 was tabled during item 4 Approval of Agenda.

8. Discussion/Action: Authorization of Interim County Manager or Deputy County Manager to exercise Full Settlement Authority in the John Paul Vigil matter subject to final approval of any proposed settlement by the County Commission

County Attorney Ernestine Cruz stated the Commission will recall that in April of 2024, the court required the parties to participate in a mediation. The County Commission approved a request that authorized the County Manager, who at that time was Joseph Garcia, to have full settlement authority subject to final approval of any proposed settlement by the County Commission. Since Mr. Garcia is no longer with the County, we need to have someone else designated as the individual who will have full settlement authority. My recommendation is that, in the event that you onboard the Interim County Manager sometime in the near future, that that individual serve as the individual with full settlement authority, or in the alternative, that it be the Deputy County Manager.

Commissioner J. Trujillo made a motion to approve item 8. **Commissioner V. Serna** seconded the motion. *All in favor. Motion carried.*

9. Discussion/Action: Approval of Amendments on SB6 Road Projects as proposed by Thomson Consulting

Commissioner J. Trujillo made a motion to *table* item 9. **Commissioner V. Serna** seconded the motion. *All in favor. Motion carried.*

10. Discussion: Update regarding Pending Procurement related Matters

Attorney Cruz stated Adelita Encinas, Procurement Officer, has been addressing some of the concerns that were raised with regard to the invitations to bid; those are being cleaned up. She will be posting the re-advertised invitations to bid in the Optic this Friday, and the bid opening date will be identified correctly on those invitations to bid going forward. In addition, the Commission has been waiting to move forward with the request for proposals on the banking and have been waiting for the Manager's office to be fully staffed so that we can get the team together to review the final draft of the request for proposals, so that everybody's on the same page with regards to what needs to be requested at that point in time. Ms. Encinas will then be advertising in the Optic so that you can move forward with that outstanding procurement as well. At a prior meeting there was approval moving forward with procurement on a legal team that will be able to assist with procurement, both internal and external related to the HPCC recovery effort, to ensure that FEMA's rules and regulations related to procurement are being followed. So that will need to be a topic of conversation after we take care of this outstanding procurement matter that we've

been talking about up to this point in time. For the benefit of the public, we thought it would be a good idea to provide a brief update regarding that status. It's the banking, propane, and a request for a dump truck. At the upcoming meeting next week, Adelita can provide a summary of everything that is going to be in queue for consideration by the Commission.

11. Discussion/Action: Authorization for County Attorney to sign pending DWI Grants involving the MCSO (CDWI PN 05-CD_05-057 in the amount of \$864 and E&E PN 05-EE-05-066 in the amount of \$1,000)

Attorney Cruz stated the New Mexico DOT sent over two DWI grants involving the Mora County Sheriff's office. When I reviewed the electronic document, I did make a reference on this agenda item to the two grant numbers. The first is in the amount of \$864 the other is in the amount of \$100. The Sheriff runs his office, and he can sign any documents that he needs to relate to this type of funding. However, since there was a signature line for the County Attorney, I did not want to sign off on those two agreements without first asking you for your authorization so that I can proceed. These are standard grants the Sheriff's office has received in the past.

Commissioner J. Trujillo made a motion to approve. **Commissioner V. Serna** seconded the motion. *All in favor. Motion carried.*

12. Discussion/Action: Authorizing payment of outstanding invoices tendered by Charlie Otero, in his capacity as Owner's Representative

Attorney Cruz stated this was a topic of conversation with the prior County Manager. He had raised some questions regarding the work that Mr. Otero had been doing on behalf of the County, and when we were looking more closely at that, we came to learn that his contract had expired, and an extension of that contract had not been presented to the Commission. As a consequence, Mr. Otero was still performing work on behalf of the County. There are outstanding invoices for Charlie Otero that need to be paid. Because you did not have a contract, there's not going to be an open PO on the procurement side, so there's no way that your Finance Department could independently decide to pay those invoices without first receiving authorization from the County Commission so that there is record that there had been that oversight of that expired contract, and of course, he did the work. So, he does need to be compensated. The amount was somewhere around \$4,000.

Commissioner V. Serna made a motion to approve. **Commissioner J. Trujillo** seconded the motion. *All in favor. Motion carried.*

13. Discussion: Update regarding pending construction projects at Mora County

Interim Manager Aragon stated we're in the process of finalizing the bid for the renovation of a couple of rooms at the courthouse to accommodate the staff that's still left behind here in the portables. We should hopefully be able to finalize that and get the contractor going in the next couple of weeks. We're also working on moving forward on a couple of road improvements with Calvary Road and St. Gertrudes, to get those finished up before the winter sets in. Tramperos and El Alto are ongoing. There's considerable progress made on both, but we have run into some setbacks due to weather and some overlapping concerns regarding New Mexico DOT and FEMA, but we're hopeful that we can get those projects put together before the winter sets in.

The agreement to terminate the FEMA lease was accompanied with an electronic DocuSign, so I don't know if that expires or not. So that's the reason why I inquired to Chairman Trujillo about whether that was time sensitive or not.

Attorney Cruz stated you can have it on the agenda for Monday, but you do need to have Commission authorization to terminate that lease. The work that's going to be taking place at the Complex for those two spaces will be to accommodate those that do not have appropriate space allocated for them currently. The Manager's office staff is temporarily being housed at the Sheriff's office. We have some very temporary space for DWI. The staff that works out of Finance and the Deputy County Manager continue to be based out of the portables. I have updated New Mexico Counties on the status to let them know that FEMA has agreed to terminate its lease of space at the Complex, and that would be effective pursuant to that agreement on September 21 that's a Saturday, which means that staff will not be able to start moving out until September 23 which is a Monday. One of the other topics that I wanted to address relates to the Administrative Office of the Courts and the funding for the district courthouse. There has been ongoing dialog with Wayne Lloyd and the Administrative Office of the Courts, as well as the 4th Judicial District, specifically Judge Michael Aragon, who's designated as their representative, some good progress has been made, and there is a meeting that I understand will be scheduled on October 1 with DFA.

Attorney Cruz further stated there was an email from Alex Tafoya indicating that the New Mexico Environment Department completed its Environmental Review of the project and did not have any objections to what was being proposed. There is some additional work that needs to be done through DFA, I believe the person's name is Steve Lacy. He's supposed to be reviewing some of the plans as well. In the conversation that happened with Secretary Probst and Wes Billingsley, they indicated that they too would be following up with Steve Lacy to make sure that he's reviewed the plans and that he is coordinating with Wayne Lloyd and Associates so that they can start moving forward with the next steps. I think the New Mexico Environment Department, was one of the missing steps in the process. And then the final step is Steve lacy with DFA to review the plan.

Commissioner V. Serna stated *for the record* every time we have a project, that that entire project be issued one PO. I think the Fire Department is issuing separate POs for the different invoices that we're getting. And I think that can make it quite convoluted when they do the audits, and I think by also keeping that on one PO, you're going to get to build that invoice for design, because, like, for example, the EMS building that is eligible, I think there's some funding designated for design, planning and design, so it should come out of that PO for everything, because that's where we keep getting money pulled out from the GO Bond when it should be designated for the Complex. And that just makes it really hard to reconcile later on, when we need to know what money is for.

14. Discussion/Action: Authorizing Waiver of Liability pertaining to Blocking of Wood by members of the public

Attorney Cruz this was an area of inquiry that you presented to me basically asking, because of some of the limitations from Finance not being able to maybe move forward with procurement, to have an Independent Contractor come in and process the wood. You inquired whether it would be possible to allow members of the public to go on site to block the wood themselves. That's something that's within the discretion of you all, as a Commission, you would just need to authorize that I prepare a waiver that can then be utilized. I do think it would be important to have limitations on the number of people that can be on site at a particular period of time to make sure that there's proper supervision and oversight of what's going on, and just ensure that members of the public are being able to get this work done in a safe way. So, you just need to let me know

whether this is something you want to proceed with, of course, you also need to recognize that there are generally issues that come up with regard to waivers and their enforceability.

Commissioner G. Trujillo stated I just feel that there's been a lot of calls from people wanting the wood, and I feel that we need to do this so people can get the wood. I was thinking of allowing 10 people at a time, block their wood, they do all the work and take a load home. I have at least 500 names on the list. I will continue volunteering, calling the people that are on my list. Any other suggestions from the Commission or anyone else?

I finally had to tell Tina, this is what we need to do, and she's bringing it back to us. And I think we, as a Commission, I'm willing to approve it and call for a motion, because we need to do this. We need to do it sooner than later. I think if I can get a couple of volunteers to go with me on a daily basis and have 10 people at a time to do this and supervise them. I want to ask John Romero from the Road Department to blade the road, to get a backhoe there so we can lower the pile of the wood because they're 10 feet high. I think it's kind of unsafe for that purpose, but I think we can get the backhoe out there with an operator to actually do that, to make it safe, the piles.

Attorney Cruz stated I would say, you could start tomorrow morning. I could have it for you by that point. To Commissioner Serna's earlier question. I made note earlier that whenever you're talking about a waiver, there's a question about enforceability. I make note of that for you all for consideration that you know, it would not be unheard of for an attorney representing a client to come forward and say, this waiver is not enforceable. We can still bring a claim against you as the County. And if that's the case, that's why I'm raising the concern related to make sure that this is being done in the safest

manner possible, with limited members of the public on site at a time. I would say, making sure that the individuals that are showing up there, that you're letting them know that they need to have appropriate safety gear and that they're doing everything in an as safe a manner as possible. So that someone cannot come back and say that you all, as a County, did something to contribute to potential injuries that may happen, and instead, if there is an injury, it's because of something that the individual did versus something that the County did. The recommendation I'm making to you is to be very mindful of anything that is under your control, as a County, ensure that it's being done safely and that nobody is going to be injured while out there because of negligence of the County.

Commissioner J. Trujillo made a motion to approve. **Commissioner V. Serna** seconded the motion. *(see final vote after continued discussion)*

Commissioner G. Trujillo stated sorry Mr. Aragon, I should have asked for your recommendation. What is your recommendation?

Interim Manager Aragon stated I had the same concerns as Tina does. Having cut a lot of wood myself, those piles are high, they can be dangerous. I certainly understand the County's predicament with the cost of processing the wood as opposed to people going in there doing it. I would say that those piles need to be less than three or four feet high, with heavy equipment to prevent any type of rolling of those logs off when they're cutting them. But it is something that you need to be very aware of when you're cutting into piles like that. So that would be my only comment on that, Mr. Chairman.

Commissioner J. Trujillo stated I would recommend that Mr. Romero take the backhoe out there and lower some of those piles down for the people, before the people get in there and start cutting.

Attorney Cruz stated I can add no kids to the waiver. Maybe you might want to think about asking the Road Department to tape off with yellow tape, the higher wood piles, so that it's very

clear where people can access because you also need to have somebody that's an employee who's specifically responsible for supervising and being on site and designating the space where you're going to be able to cut so that nobody is going into a restricted area. I would recommend taking pictures of how you have everything set up before you get started, so that if there is an issue, you can memorialize how you set everything up in a very safe manner before the work commenced.

All in favor on a roll call vote: Commissioner John Trujillo - Yes. Commissioner Veronica Serna - Yes. Commissioner George Trujillo - Yes. Motion carried.

Attorney Cruz stated my final recommendation, Chairman, is that Mr. Aragon, along with the Road Department, put together a work plan of sorts, so that everybody's on the same page with regard to what needs to be done before the work can commence to ensure safety and then what needs to be done on a daily basis on site to ensure that safety is being followed, so that there's very clear written protocols and no confusion regarding what needs to be done.

15. Discussion: Other Informational Items

Commissioner G. Trujillo stated we'll have a meeting Monday morning at 9:00 a.m. Items on the agenda would be construction in the courthouse, the bid approval, the changing scope to the DOT roads and to terminate the lease. Also, we'll need to add the approval of resolution of extension for the other 3 DOT projects as well.

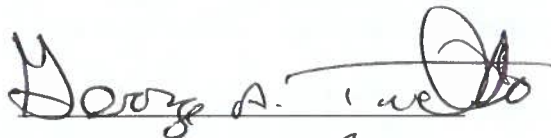
16. Signing of Approved Documents

The Commission signed the approved documents.

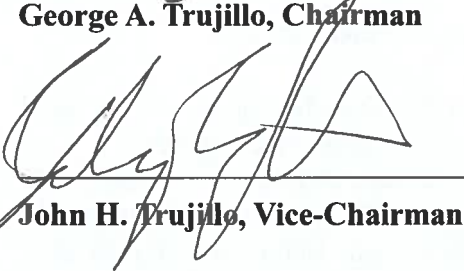
17. Adjournment

Commissioner V. Serna made a motion to adjourn. Commissioner J. Trujillo seconded the motion. *All in favor. Motion carried.* The meeting adjourned at 12:17 p.m.

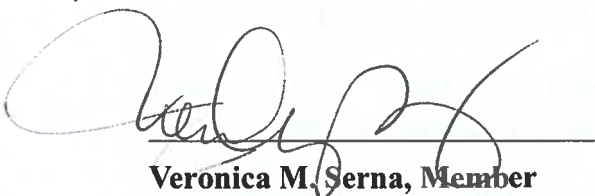
MORA COUNTY BOARD OF COMMISSION



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