

REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS

June 11, 2010

9:00 a.m.

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 11th day of June, 2010 at 9:00 a.m. in the Commissioners' Room of the Quay County Courthouse, Tucumcari, New Mexico for the purpose of taking care of any business that may come before them.

PRESENT & PRESIDING:

Franklin D. McCasland, Chairman
Bill Curry, Member
Robert Lopez, Member
Ellen L. White, County Clerk
Richard Primrose, County Manager

OTHERS PRESENT:

Larry Moore, Road Superintendent
Donald Adams, Quay County Fire Marshal
Cheryl Simpson, Quay County Manager's Office
Janie Murray, Quay County Assessor
Bill Humphries, Quay County Road Viewer
Gerald Hight, Quay County Resident
Paul Hight, Quay County Resident
Larry Whitson, Quay County Resident
Tonya Cone, Quay County Resident
Jerry Bradley, Quay County Resident
Jerry Koile, Quay County Resident
Verity Ulibarri, Farm Credit Services
J. D. McEwen, Farm Credit Services
Richard Arguello, Eastern Plains Council of Governments Board Chairman
Phillip Box and Paul Stout, Coalition of Renewable Energy Landowners Association
Art White & Jim Paris, San Jon Residents
Mark Spoon and Ajay Tipnis, Ute Lake Ranch landowners

Chairman Franklin D. McCasland called the meeting to order. Richard Arguello led the Pledge of Allegiance.

Gene Cox, Gene Cox, Jr., Brad Bryant, Bobbye Rose, Bruce Hamon and Muriel Agnelli joined the meeting. Time noted 9:05 a.m.

Chairman McCasland called the Public Hearing to order. The Hearing was for proceedings regarding closure of .22 miles on Quay Road 52 (4075-4100) and 5.96 miles on Quay Road 53 (3700-4100). Quay County Clerk, Ellen White issued Oaths to the following people as they gave their testimony during the Hearing:

Jerry Bradley stated he owned mineral rights on the land along Quay Road 53 and had no problems with the closure as long as the rights of ingress and egress are retained by the owners of record.

Tonya Cox Cone stated that with the closure her and her family wanted to make sure that there are no restrictions regarding easements that could potentially affect future sales of the property. Chairman McCasland echoed her concern and stated that it will be his preference to table action on this closure until easements are properly secured and recorded with the County Clerk.

Verity Ulibarri, representing Farm Credit Services as a lien holder on subject property along that road, stated the lender will be fine with the closure as long as legal access to the property is maintained.

Bill Humphries presented a rough draft of an easement for all landowners to review and approve prior to the legal closure of the road. Humphries requested the Commission continue with the process of the closure of the .22 miles of Quay Road 52 in the event action on Quay Road 53 is tabled.

Gene Cox respectfully requested his original approval of the closure be rescinded until all easements from all landowners are obtained.

Jerry Koile stated due to recent vandalism and fences being left open allowing livestock to roam at will, he supports and requests closure of the portion of Quay Road 53 in question.

With no further concerns from the audience, Chairman McCasland closed the Public Hearing portion of the meeting.

A MOTION was made by Bill Curry, SECONDED by Robert Lopez to approve the minutes from the May 24, 2010 and June 4, 2010 regular commission meetings. MOTION carried with all members voting "aye".

A MOTION was made by Robert Lopez, SECONDED by Bill Curry to approve the Agenda as presented. MOTION carried with all members voting "aye".

Public Comments: Art White presented a letter to the Board of Commissioners expressing their gratitude and appreciation for the work of the Quay County Road Department to rebuild four miles of Route 66 and a portion of Quay Road M in the San Jon area while using materials from their caliche pit. White requested the letter be placed in the proper personnel files within the Road Department.

Larry Moore, Quay County Road Superintendent respectfully requested closure of .22 miles from 4075-4100 on Quay Road 52. As well, Moore requested the Commission table any action on the closure of Quay Road 53 until easements from all landowners are secured and filed with the County Clerk. A MOTION was made by Bill Curry, SECONDED by Robert Lopez to approve the requests as described by Moore. MOTION carried with all members voting "aye".

Richard Arguello, Eastern Plains Council of Governments Board Chairman presented a lengthy overview of the purpose of the Council. Arguello provided information regarding the "Regional Planning Act" and the Planning District Act" and explained their differences. Arguello provided a listing of the entities with their respective membership contributions, stating without the continued support of each governmental entity, the programs being provided will no longer be possible. Arguello stated the EPCOG agency is a continuation of the staff already in place at the Counties and Cities but offer services that perhaps are not affordable or in areas of expertise such as grant writing. Arguello stated that the Council has three priorities with the first being to provide services to the agencies that pay a membership as well as some services to those who cannot pay. The second priority is to comply with the Department of Finance with requirements regarding services being provided. Lastly, the council is obligated to the Economic Development Administration of the Federal Government who dictates how monies are used and federal matches are obtained for projects.

Chairman McCasland stated he has a real concern spending taxpayer money frivolously to be a member of an organization who has provided little or no services to the County and whose accounting has been questioned by members. As well, McCasland stated he would not vote in favor of supporting an entity that cannot provide current audits as required by law. Arguello stated that the audits through 2005 have been completed and no findings were made. Arguello also stated the Council is struggling to secure an audit contract to perform the remaining audits and without the support of the memberships, it will be impossible to acquire an auditor. McCasland stated the Council had line items budgets that provided for those audits for the years in question so that funding should still be available if no audits were conducted. Commissioner Curry echoed the concerns of McCasland and stated it was bad business practice to allow a governmental agency to get so far behind in auditing of their financial status. Arguello reaffirmed that audits would be forthcoming and requested support of the Quay County Commission to continue their membership. Chairman McCasland stated he was adamantly opposed to Quay County continuing this membership until all audits are complete and called for the question. A MOTION was made by Bill Curry, SECONDED by Robert Lopez to deny the request for membership to the Eastern Plains Council of Governments. MOTION carried with all members voting "aye".

Mark Spoon, property owner at Ute Lake Ranch Filing No. 1 and Chairman of the Ute Lake Ranch Property Owners Steering Committee requested the attention of the Board with their investments at Ute Lake Ranch. Spoon said the property owners are requesting assistance in whatever capacity possible to aid them in persuading Barry Freedman to comply with completing the Subdivision with the promises originally made to them when lots were purchased. Spoon stated without potable water, completed roadways, power and phone lines land owners cannot build on the lots purchased. The landowners believe Freedman has failed to comply with the Subdivision Regulations of the County and request the Commission aid them in their efforts. Due to the non-performance of Freedman, the landowners hands are tied with moving toward developing their lots with homes and allowing them to be part of the community. Spoon stated that he personally has been challenged by financial institutions regarding construction loans because of the fact there is not access to potable water, intake structures and utilities on the lots. Spoon stated in his most recent meeting with Freedman, it was Freedman's position that it's not his problem any longer and he affirms that he made no promises as to the water or improvements owners are complaining about. Chairman McCasland stated the Commissioners all agree there is a problem with Freedman carrying out the terms as set forth in the Subdivision Ordinance and the regulations thereof. McCasland stated the minutes from a May, 2004 County Commission Meeting

reflect that Freedman, along with his attorney attended and stated that with the approval of the Ute Lake Ranch Public Improvement District No. 1, Ute Lake Ranch developers would be installing telephone and electrical lines and water improvements for the 128 lot subdivision with a centralized sewer system at a later date. Approximately a year later, the City of Tucumcari leased 3750 acre feet of water and the County leased 1000 acre feet to the subdivision to allow Ute Lake Ranch to develop the intake structure, a water treatment facility and conveyance system. The contracts between the City, County and the developers of the subdivision made provisions for the lease of the water and the developers agreed that through the intake structure and water treatment system, the City and County's 7000 acre feet of water would be treated by Ute Lake Ranch and the entities would be able to access the remaining water not leased to the development through the intake structure. McCasland noted this agreement along with the improvements as promised by Freedman when requesting the PID approval by the Board of County Commissioners has not been carried out. Chairman McCasland affirmed the developers are not in compliance with the Subdivision Regulations of the County. McCasland requested that Spoon get notarized statements from the individual landowners with their complaints and concerns as a property owner who purchased property from a developer whose subdivision falls under the guidelines of the Quay County Commission and deliver the letters to Richard Primrose, County Manager so they letters can be forwarded to the County's legal council. Chairman McCasland asked if the lot owners had contacted the real estate agent they purchased the lots from. Spoon stated they had been in contact with the realtor, however it's the choice of the landowners to try and resolve the issues with Freedman and get him to deliver the obligations he has. The group is exploring other opportunities to have their sales rescinded or get some form of relief. While gathering information to move forward with possible litigation, they have become aware the realtor they purchased lots from was not licensed agents within the State of New Mexico. McCasland stated the County and Commissioners are dedicated to seeing this development move forward and will do everything within their powers to assist the landowners.

Ajay Tipnis, landowner at Ute Lake Ranch, echoed Mark Spoon's comments and included his concerns regarding the value of the land being depleted and the community they bought into to enjoy the golf course and clubhouses and access to the lake will suffer as well. Tipnis said it's in the best interest of everyone to get this resolved. Chairman McCasland thanked the landowners present for their professional manner in bringing their concerns forward to the Commissioners and look forward to resolving the issues.

Commissioner Curry asked Mark Spoon if all property owners were participating in the meetings being held by the steering committee of landowners. Spoon replied that all landowners are being made aware of the situation and stated there is universal support of the owners. Spoon stated he will continue to make an effort to contact each landowner individually as they move forward to ratify the problems.

Phillip Box, representing the Coalition of Renewable Energy Landowners Association (CRELA) provided the Board with a copy of an Ordinance from Union County establishing a Wind Energy Ordinance for their review. Box stated the CRELA group was formed and encompasses landowners throughout New Mexico. Box is President of a smaller group within CRELA called the Hudson Revuelta Landowners Assn. This group represents the area lying within the boundaries of Quay Road 57 (South line) to Quay Road AK (West line) to the Canadian River (North line) and then to State Hwy 469 between San Jon and Logan (East line). The area encompasses 100,000 acres in Quay County with 16,000 of that being State Land which does not participate in the Association. Their initiative is to promote the development of Wind Energy and an Interstate Transmission Line.

Box introduced Paul Stout who worked with the legislature to develop a proposed transmission corridor that will be presented as a Resolution in future legislative sessions. Stout stated there are numerous proposals being introduced in legislative sessions that he has opposed due to restrictions set forth in those Bills and Resolutions. Stout said he is urging each County to use the Union County Ordinance as a template and develop their own Ordinances so he can fight negative and restrictive legislation that could derail the positive direction of the Associations. His group will send a message to the legislators that the Counties are active in the development of Wind Energy and are already establishing their own Ordinances and don't need legislation to mandate regulations to them. Commissioner Curry said he agrees that each County should develop their own Ordinance as he saw several items in the template he would change prior to Quay County adopting an Ordinance. Chairman McCasland said the Board of Commissioners has always been very proactive regarding Wind Energy. McCasland said it was very important not to develop an Ordinance that ties the hands of the developers by creating hurdles for them to overcome. McCasland said the Board would review the template and develop an Ordinance for future approval.

Donald Adams, Quay County Fire Marshall presented the following items:

1. Resolution No 66; Authorizing submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority. A MOTION was made by Bill Curry, SECONDED by Robert Lopez to approve said Resolution. MOTION carried with all members voting "aye". A copy of said Resolution is attached and made a part of these minutes.
2. Requested permission for Rural I, Bard-Endee and Jordan Fire Districts to submit applications for Forestry Grant Funds. The application deadline is July 25, 2010. A MOTION was made by Robert Lopez, SECONDED by Bill Curry to approve applications. MOTION carried with all members voting "aye".
3. The land transfer for the Jordan fire district is still being researched.
4. Quay Fire District received their truck Wednesday, July 9. The water tank at Rural Two is complete. Forrest Fire Department building has the concrete poured with a possible 60 day extension on the project because of the time required to obtain proper permits.
5. Nara Visa has their new truck. Bard-Endee's truck is in Albuquerque and will be picked up today. Jordan's truck is in Albuquerque and is not quite complete with accessories.

Larry Moore, Road Superintendent, gave the following Road Department report:

1. Crews have moved to the House, NM area to work on Quay Road B.
2. Estimations for costs on improvements to Ute Lake Ranch Road will be forthcoming.

Commissioner Lopez stated elm trees in the right-of-ways are still a concern for residents. Debra Mitchell is also requesting a cattle guard be moved.

Chairman McCasland asked if Moore had determined whether the speed bumps along Maple Street were placed legally. Moore said he has inquired to several entities and have not been able to get an answer to the legality and how to properly remove them without it being a County versus resident situation. Moore said he does not understand how the speed bumps were placed in a public roadway when State

statute specifically says you cannot obstruct a roadway. Chairman McCasland requested Moore and Primrose seek the legal advice of Tim Rose, Attorney.

County Manager Richard Primrose presented the following Manager's Report:

1. Presented the Memorandum of Understanding between Quay County and the Administrative Office of the Courts. A MOTION was made by Robert Lopez, SECONDED by Bill Curry to approve the said MOU as approved. MOTION carried with all members voting "aye". A copy of said MOU is attached to and made a part of these minutes.
2. According to Darrell Bostwick, the Ute Reservoir Water Commission will be rescheduling a meeting for the end of June or first part of July and is requesting items from the Commission for the agenda and should include extending water reservations with the Interstate Stream Commission.
3. PMS/Quay County Family Health Center will be hosting a groundbreaking ceremony for their new addition to the facility on June 23, 2010 at 10:00 a.m.
4. Presented the May, 2010 monthly RPHCA report.
5. Thanked Danny Estrada and the Road Department for their work on the rodeo arena.
6. The Mainstreet Program painted the DWI and ASAP buildings owned by the County on Main Street in the downtown area.
7. The Detention Center will be sending officers, periodically to a two week academy in Las Vegas, New Mexico for certification so they can get the entire staff certified.

Commissioner Lopez commented that he was at the Exhibit Center last week and noted the improvements being made are very nice and he looks forward to being able to use the facility for future events.

CHECKS WERE REVIEWED AND APPROVED:

UNDER OTHER BUSINESS: None

Chairman McCasland requested a recess. Time noted 11:15 a.m.

Return to regular session. Time noted 11:25 a.m.

A MOTION was made by Bill Curry, SECONDED by Robert Lopez to go into Executive Session pursuant to the Open Meetings Act 10-15-1(H) 8 NMSA to discuss the purchase, acquisition or disposal of real property or water rights. MOTION carried with Curry voting "aye", Lopez voting "aye" and McCasland voting "aye". Time noted 11:30 a.m.

-----EXECUTIVE SESSION-----

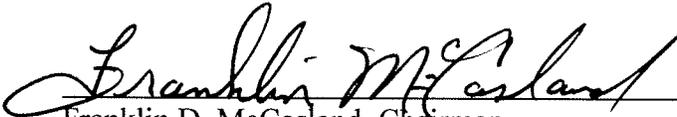
Return to regular session. Time noted 12:05 p.m.

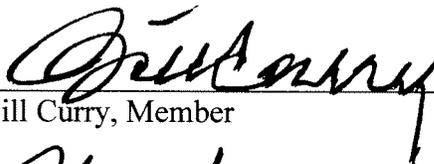
A MOTION was made by Bill Curry, SECONDED by Robert Lopez that only the purchase, acquisition or disposal of real property or water rights were discussed during Executive Session and no action was taken. MOTION carried with Curry voting "aye", Lopez voting "aye" and McCasland voting "aye".

Chairman McCasland announced the Commissioners would be having lunch following the adjournment of this meeting at K'Bobs Restaurant. The public is welcome to attend.

There being no further business, a MOTION was made by Robert Lopez, SECONDED by Bill Curry to adjourn the regular meeting of the Board of Quay County Commissioners until the next regular meeting set for Monday, June 28, 2010 at 9:00 a.m. unless sooner called. MOTION carried with all members voting "aye". Time noted 12:10 p.m.

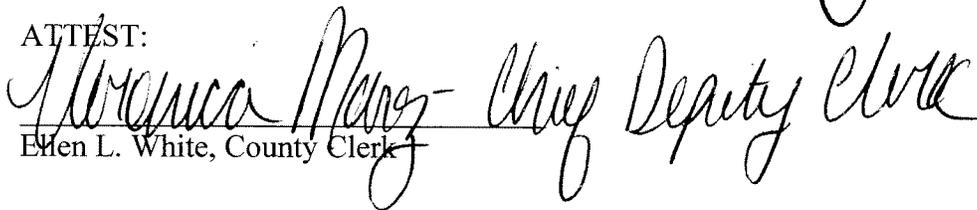
BOARD OF QUAY COUNTY COMMISSIONERS


Franklin D. McCasland, Chairman


Bill Curry, Member


Robert Lopez, Member

ATTEST:


Ellen L. White, County Clerk