

SAN MIGUEL COUNTY SPECIAL MINUTES
for January 22, 2010

CALL TO ORDER

The Board of County Commissioners of San Miguel County held a Special Meeting on Friday, January 22, 2010, at 9:00 a.m. at the San Miguel County Commission Chambers, County Courthouse 2nd floor, 500 West National Ave., Suite 200, Las Vegas, New Mexico 87701. The agenda for the special meeting was as follows:

ROLL CALL

Chairman David Salazar, Vice-Chair June Garcia, Commissioner Albert Padilla, Commissioner Marcellino A. Ortiz, and Commissioner Nicolas T. Leger were all present.

The record will show a quorum was present.

PLEDGE OF ALLEGIANCE

SALUTATION TO THE NEW MEXICO STATE FLAG

NEW BUSINESS:

1. AMENDMENT, NEW HIRE OF DEPUTY SHERIFF

Sheriff Benjie Vigil advised the Commission the Board of County Commissioners approved the hire of David Bibb III, Deputy Sheriff at the Regular County Commissioner Meeting on January 12, 2010 at the salary of \$29,000 annually. An amendment is presented to the Board of County Commissioners to adjust the salary to \$30,526.31 annually with the starting salary of 95% for the probationary period to be at \$29,000 annually.

Mr. Vigil submitted for approval of amended salary.

Motion made by Commissioner Albert Padilla to approve amended salary. Second by Commissioner June Garcia. Motion carried.

2. BID AWARD SANITARY SEWER SYSTEM AND EVAPORATIVE LAGOON FOR THE NORTHERN NEW MEXICO WOOD BUSINESS PARK (ARRA)

County Manager Les Montoya advised the Commission San Miguel County solicited seal of bids for the sanitary sewer system and evaporative lagoon for the Northern New Mexico Wood Business Park. Eight bids were received.

Mr. Montoya submitted to award to lowest bid to Purgatory Valley Construction in the amount of \$321,530.25.

Motion made by Commissioner Albert Padilla to award Purgatory Valley Construction. Second by Commissioner Marcellino A. Ortiz. Motion carried.

3. PETITION TO DISCONTINUE ROAD AS PUBLIC ROAD (COUNTY ROAD B-41-E)

Chairman Salazar advised the Commission a petition was submitted by Daniel Garcia, Jr., to discontinue a portion of County Road B-41-E as a public road.

Mr. Salazar opened a public hearing.

County Attorney Jesus Lopez advised the Commission explained the procedures of the public hearing.

Chairman David Salazar advised for the record, he recused himself from this proceeding.

Motion made by Commissioner June Garcia to approve procedure. Second by Commissioner Marcellino A. Ortiz. Motion carried.

Chairman David Salazar swears and affirms the public under oath.

Attorney Ron VanAmberg, representative for Daniel Garcia, Jr. on the stand to advise the County of the issues on a portion of road B-41-E that runs through Mr. Garcia's property. Mr. Garcia is facing illicit activities such as drug dealing and trash. Mr. Garcia does not intent to interfere with private access for emergencies or residences. Mr. Garcia is willing to accommodate residents. Mr. VanAmberg is asking the Commission to no longer recognize this portion of B-41-E as a public road.

Attorney Danelle J. Smith advised the Commission that if the road gets closed, it's going to disturb the County of San Miguel and its residents in the future. Ms. Smith advised the Commission that public money has been used to create and maintain this road for the last twenty-five (25) years.

Ms. Smith presented her exhibits and statutes with quotes of cases that have been disputed in various courts.

Ms. Smith advised that should homeowners want to sell their property, and want fair value, buyers want title insurance and Title Companies require access to your property.

County Attorney Jesus Lopez advised the Commission failed to note that time and date of notice of hearing was published in the Las Vegas Optic on January 8th and 15th, 2010, that notice was mailed to the 39 persons listed, notice was also posted on both sides of the road in question, and Mr. Lopez mailed notice to Attorney Danelle Smith on December 22, 2009 for clients Joe Chavez, Sheilah Barry, and Lorraine Ortiz and Daniel Cressman.

Mr. Jesus Lopez asked the Commission to state any objections they may have to his recitation of the notice or alleged deficiencies.

No objections were made.

Chairman David Salazar called a break at this time. The time now is 10:10 a.m.

Chairman David Salazar reconvened at this time. The time now is 10:20 a.m.

Attorney Ron VanAmberg called his client Daniel Garcia.

Daniel Garcia on the stand at this time and advised the Commission utilizing applicants exhibit one, that there is a road that goes through his property that has since created issues with trash, stolen rock and unwanted traffic. Mr. Garcia went on to say that it was a private road until the County went in to blade this same road without his fathers' consent.

Attorney Danelle J. Smith conducted her cross-examination. Ms. Smith asked Mr. Garcia how people are supposed to exit when the road floods. Ms. Smith asked Mr. Garcia if he knew that the County cannot use public money to maintain a private road. Ms. Smith asked Mr. Garcia why he does not fence his property on the east side.

Discussion ensued.

County Attorney Jesus Lopez asked Mr. Garcia who actually needs to utilize the road. Mr. Lopez asked if Mr. Garcia will honor property owners the right to access their property.

County Attorney Jesus Lopez advised the Commission and the public that a recess will be called for lunch at 12:00 noon until 1:15 p.m. The viewing of the road will be scheduled at a later date and will be announced before the closing of the hearing.

Attorney Ron VanAmberg called Rosabel Gallegos to the stand. Rosabel Gallegos is Daniel Garcia's sister. Ms. Gallegos advised it is bothersome that their land is being violated.

Ms. Smith cross-examined Mrs. Gallegos.

Attorney VanAmberg has no more witnesses.

Attorney Smith called Carlene Whitcomb. Ms. Whitcomb has been a resident for 7 years. Six school aged children live in this area. Ms. Whitcomb advised that this road is a liability issue should it get closed especially on emergencies and treacherous weather.

Attorney VanAmberg conducted a cross-examination.

Elisha Holiday has been a resident for 4 years. Ms. Holiday explained a hill that is treacherous to drive during inclement weather.

Tony Sevala took the stand. Resident of Villanueva for 6 years. Mr. Sevala travels the road several times a week. Mr. Sevala advised the Commission it would save time and gas to leave the road open.

County Attorney Jesus Lopez called for recess at this time. The time is 11:56 a.m.

Public hearing reconvened at this time. Time is 1:18 p.m.

Attorney Smith called Joe Chavez aka Benny Chavez to the stand at this time. Mr. Chavez expressed his concerns with insurance. Mr. Chavez advised he was trying to refinance his home and property owners need to have access or inspection for property. Mr. Chavez expressed his concerns of his children coming to visit, stating that Mr. Chavez would have to wait at the gate until they would arrive.

Attorney VanAmberg cross-examines Mr. Chavez.

County Attorney Jesus Lopez advised the public that the public hearing will not go past 4:00 p.m. today and advised the attorneys to check schedules for a continuance for February.

Danelle Smith called Ralph Bustos to the stand. Mr. Bustos is a licensed title examiner for Territorial Title of Las Vegas. Mr. Bustos advised that Access Exception means access is not insured in the title policy. Mr. Bustos said a title commitment lists the requirements that are needed to be met before a policy can be issued, and the title policy is an insurance policy insuring the title of the property is good. He stated that people that are paying fair market value for property are requiring title insurance. Based on his experience people would not accept a title policy because it would not have insurance stating they have legal access to their property. Mr. Bustos stated that companies will have no choice to start placing Access Exception on properties should roads get closed.

Attorney VanAmberg cross-examines Mr. Bustos. Mr. VanAmberg

Danelle Smith called Sheila Barry to the stand. Ms. Barry has been a resident for 10 years. Ms. Barry has a small farm and grows 40 different vegetables to sell at the farmers market. Ms. Barry utilizes the road at least once a day.

Ms. Smith asked Ms. Barry what kind of relationship she had with Daniel Garcia, Jr.

Ms. Barry advised she has tried to have a relationship with Mr. Garcia, but to no avail. Ms. Barry feels somewhat threatened by Mr. Garcia. Ms. Barry feels Mr. Garcia has a personal problem with her that he is not expressing. Ms. Barry feels she will not be treated fairly should the road be closed. Ms. Barry stated that deliveries to her house would be a concern.

Attorney VanAmberg conducted cross-examination. Mr. VanAmberg asked Ms. Barry if she knew the difference between a public road and a private easement. Ms. Barry answered no.

Chairman David Salazar called for a recess. The time was 3:00 p.m.

Chairman David Salazar reconvened. The time was 3:15 p.m.

Danelle Smith called Arman Saiia. Mr. Saiia lives with Sheila Barry and they have two farms and work together. Mr. Saiia stated that he travels that road at least twenty times a day and has never seen any vandalism and trash always gets picked up by him.

Ms. Smith asked Mr. Saiia if a gate will affect his business. Mr. Saiia advised yes. A gate would affect his business due to deliveries and pick-ups.

Ms. Smith called Louisa Quintana. Ms. Quintana advised she is the 8th generation to live in El Cerrito. Ms. Quintana advised her family has been locked out of her other property on County Road B-28-A for three years.

Nicolas T. Leger advised Ms. Quintana her statement is irrelevant to the case.

Ms. Smith advised Commissioner Leger that her statement needs to be continued due to the fact that it sets precedence to the case.

County Attorney asks Ms. Smith how many more people she has to testify. She advised she had seven people to testify. Mr. Lopez advised the public that the hearing will reconvene on Monday February 1, 2010 at 9:00 a.m. He went on to say that today at the meeting will be the only notice that will be given.

Ms. Smith called Ben Flores to the stand. Mr. Flores has lived in the south end of Corruco since 1981. Mr. Flores stated that the road has a hill with about an 80 degree incline and is detrimental. Mr. Flores advised there had never been gates in this area, only remnants.

Attorney VanAmberg cross-examined Mr. Flores.

Chairman David Salazar called to dismiss the hearing at this time until Monday February 1, 2010.

Executive/Closed Session

- A. Personnel Matters, as permitted by Section 10-15-1(H) (2) of the New Mexico Open Meetings Act, NMSA 1978.**
- B. Matters subject to the attorney client privilege pertaining to threatened or pending litigation in which SMC is or may become a participant, as permitted by Section 10-15-1(H)(7) of the New Mexico Open Meetings Act, NMSA 1978.**
- C. Matters pertaining to the discussion of the acquisition of real property, as permitted by Section 10-15-1(H)(8) of the Open Meetings Act, NMSA 1978.**
- D. Matters pertaining to deliberations by the County Commission in connection with the adjudicatory proceeding held concerning the Petition to abandon a portion of County Road B-41-E, as permitted by Section 10-15-1(H)(3) of the Open Meetings Act, NMSA 1978.**

No Executive Session was held.

ADJOURNMENT

Motion made by Commissioner Albert Padilla to adjourn. Second by Commissioner June Garcia. Motion carried. The meeting ended at 5:40 P.M.

Approved this _____ day of _____, 2010 as the official minutes of the Board of County Commissioners of San Miguel County, New Mexico, of its special meeting held January 22, 2010.

David R. Salazar, Chairman

June J. Garcia, Vice-Chair

Albert J. Padilla, Commissioner

Marcellino A. Ortiz, Commissioner

Nicolas T. Leger, Commissioner

ATTEST

Melanie Y. Rivera, County Clerk

Minutes Submitted by: Michelle J. Padilla