

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

MARCH 22, 1999

M I N U T E S

The Regular Meeting of March 22, 1999 was called to order by Chairperson Alicia Aguilar at 4:07 PM.

PRESENT

Alicia Aguilar, Chairperson
Aurelio H. Padilla, Vice-Chairman
Helen Baca, Commissioner
Eloy G. Giron, Commissioner
S. T. Frank Pando, Commissioner
James Fernandez, County Manager
Thomas Garde, County Attorney
Kandy Cordova, County Clerk
Press and Public

ABSENT

EXECUTIVE SESSION

County Clerk Kandy Cordova read the agenda for the Executive Session.
Commissioner Al Padilla made a motion to approve the agenda for the Executive Session.
Commissioner Frank Pando seconded the motion. Motion carried.

Commissioner Frank Pando made a motion to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried with Commissioner's Pando, Giron, Padilla, Aguilar and Baca voting yes.

Commissioner Frank Pando made a motion to return from Executive Session. Commissioner Al Padilla seconded the motion. Motion carried.

Carol Anaya stated during the Executive Session, discussion was held on the following:

LEAVE WITHOUT PAY: Robert Griggs
MATERNITY LEAVE WITHOUT PAY: Mary Ann Maldonado
FAMILY MEDICAL LEAVE: Terry Baber
END OF SEASONAL EMPLOYMENT: Meliton Sanchez
STATUS CHANGE/ PROB. TO NON-PROB./SALARY ADJUSTMENT:
Gail Fenstermacher Jeffery Noah Richard Smith
TEMPORARY SALARY ADJUSTMENT: Brian Culp
NEW HIRE (pending pre-employment physical/drug test/background check):
Salomon Marquez Patrick Otero

Commissioner Frank Pando made a motion to approve the personnel matters presented by the Personnel Director. Commissioner Eloy Giron seconded the motion. Motion carried.

County Attorney Tom Garde stated, "Under pending litigation, discussion was held on the Bonito Land & Livestock. No action was taken."

"During Executive Session an offer was made on a certain piece of property that will be submitted to the seller, but at this point there has been no acceptance. We are still waiting on that. That is for the Valencia County Jail."

James Fernandez stated, "In Executive Session, we discussed the architect for the Adult Detention Facility. That being Nims - Calvani, the contract was signed based on a 7% fee. The other was a contract with Molzen - Corbin not to exceed \$9,000.00 to deal with the landfill closure. It deals specifically with items that were a concern of the Environmental Dept." **(See Exhibit A)**

INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF

Chairman Alicia Aguilar introduced Commissioner's Frank Pando, Eloy Giron, Al Padilla and Helen Baca, County Clerk Kandy Cordova, County Sheriff Juan Julian, Paula Weathersby, Carol Anaya, County Manager James Fernandez, Monica Mireles, Planning & Zoning Administrator Mike McCartney, Helen Cole, Road Superintendent Louie Pena and Brian Buddenhagen from the News-Bulletin.

PLEDGE OF ALLEGIANCE

Sheriff Juan Julian led the Pledge of Allegiance.

APPROVAL OF AGENDA

County Clerk Kandy Cordova read the agenda as presented. James Fernandez stated he would be making the presentations for Carlos Montoya. The public hearing for solidwaste was omitted from the agenda, but was publicized. It will be the first item on the agenda.

Those speaking under Public Requests will be Leonard Garcia, Reggie Chavez, Dody Hoffman, Bruce Watson, Ken Wright and Gerald Debevick.

Commissioner Eloy Giron made a motion to approve the agenda with the changes. Commissioner Helen Baca seconded the motion. Motion carried.

APPROVAL OF MINUTES

The Minutes of March 8, 1999 were presented for Commission approval.

Commissioner Al Padilla made a motion to approve the Minutes of March 8, 1999. Commissioner Eloy Giron seconded the motion. Motion carried.

PUBLIC REQUESTS: At the Discretion of the Chairman, For Information Only.

Leonard Garcia requested that the Commission adopt a request from Planning and Zoning to only let Max Kiehne have one (1) acre of land to work his gravel mine. It will not take the trucks away, but it will curb the amount of trucks coming into the area. If Mr. Kiehne gets into full operation, he will have 300 trucks operating out of that area. If that happens, it will be like locusts descending into Los Lunas and devouring our space in traffic.

Reggie Chavez alerted the Commission to a controversy that is brewing over a 250-foot telecommunications tower that was put up on the West Mesa. The notice requirement was grossly abused. Some of the adjoining landowners never received notice. His mother never received notice. Other people received notices that were not adjoining landowners. The entire process took 14 days.

(See Exhibit B)

Dody Hoffman said she lives at the southern most part of Los Lentes Road adjoining the Mid-Valley AirPark. She said she was speaking on behalf of a group to request the Commission to stop the proposed establishment of a cattle feed lot at the former Nick Van Tol Dairy. It is their understanding that Mike Mechenbier proposes to put in a feed lot to hold at least 5000 head of cattle. The size of the property is less than 30 acres. Their protest is based on the adverse affect this will have on their neighborhood.

Mike McCartney said Commissioner Frank Pando asked to him to investigate this issue today. There has been no application made yet.

Chairman Aguilar said when this materializes and they come through for a permit, it will be advertised and the people will be notified.

Ken Wright wanted to talk about SolidWaste. It was requested that he wait until the first item on the agenda, which will be a public hearing on SolidWaste.

Bruce Watson from MeadowLake spoke on the trucks tearing up MeadowLake Road. He said he rides his bike and has passed the trucks with a water truck running and he has to stop and let the dust subside.

Chairman Aguilar said the Commission is looking into the health, safety and welfare of the citizens.

Commissioner Eloy Giron said on April 5th, the Commission will be addressing the rezoning of this land. He encouraged Mr. Watson to be at that meeting.

Chairman Alicia Aguilar recommended that Mr. Watson call a few days before the meeting and get a copy of the agenda to make sure that it is on for that meeting.

Gerald Debevick spoke about the trucks and the deterioration of the road. He said it is very dangerous for the school buses picking up the children and dropping them off.

ACTION ITEMS

(A) PUBLIC HEARING/SOLIDWASTE

Dieter Hartenhoff recommended that mandatory garbage pickup be put in place for Valencia County. That would eliminate all of the garbage being left by the side of the roads throughout the county. It would also eliminate trash burning.

Ken Wright from Bosque said he doesn't think the present system works. He also disagreed that mandatory garbage pickup is the answer. They do a lot of recycling. He applauded Los Lunas for having bins out for recycling. He said it is not easy in Valencia County to get rid of trash. There needs to be more convenience stations placed around the county. People are not going to drive thirty miles to haul their garbage.

Maddie McGee said she lives on a road where a garbage truck cannot turn around. She would like to see the transfer station accept more items, such as furniture and refrigerators.

Mike McCartney said, "At the request of the Los Lunas Alternative School Collaborative Team in association with the County will be conducting a clean-up of the Monterey Park area on March 31st from 9:00 AM to 3:00 PM. Tierra Bonita will provide gloves and trash bags. Roll off bins will be provided as well as a front-end loader. They encourage participation from all." Mr. McCartney said this came about because of some meeting between Chairman Aguilar and James Fernandez. The roll-off bins are provided free and the developers provide the operator of the front-end loader. He said they attempted to do this a couple of years ago. There were three people from the Commissioner's family, Mike McCartney, Tierra Bonita and ten people from the entire area. They are trying to get as much participation as possible and they will be doing other areas at other times.

Chairman Aguilar commended the Alternative School, Maria Elena Ayala and Lupe Garcia. They are family students that live in Monterrey Park. They asked for help in cleaning up their community. They have the participation of the developer, Waste Management, the County, Planning and Zoning not only Mike McCartney, but also Benji Torres and Charles Eaton.

County Manager James Fernandez said Martin Romero notified them that they are going to have a community clean-up starting on Valencia Road working all the way down to Allsup's in Belen.

It will be on April 10th. The County will be providing garbage bags to those individuals to clean up Highway 47.

Mr. Fernandez said they received notification from Mr. Melvin Sisson of Peralta Disposal & Recycling regarding his discussion of SolidWaste in Valencia County.

On April the 24th, the County will be having a "Clean-Up Valencia County Day". They will be dealing with Waste Management and Tierra Bonita. There will be a bag-a-thon to pick up trash in Valencia County and there will be a free day for people to drop off their trash at the transfer station.

Ronnie Baca said he has frequented the dump station here for four years. He started his own business in January. He also does business in Albuquerque. He said he feels more comfortable doing business in Albuquerque than he does in Valencia County. They only charge \$3.15 to dump in Albuquerque and they charge \$15.00 down here.

Melvin Sisson addressed the Commission as a concerned citizen and as a businessman in Valencia County. He has run the Peralta Disposal & Recycling Business for the past 18 years. He said approximately 2 1/2 years ago the County Commission negotiated and awarded an exclusive contract to a large independent waste disposal service. This was done with the intent to solve several concerns and problems that the county faced at that time. He asked what has happened to that contract. The Tri-Sect Landfill is closed, the only gross receipts taxes being paid to the county are by Peralta Disposal & Recycling about 1/10th of the trash hauling business, there is no money now being paid to the county (franchise fee), therefore none or very little enforcement of illegal dumping. There are at least two, if not more companies traveling the same roads competing for the same customers. The ownership was sold shortly after the contract was awarded and then changed ownership two more times through buyouts. Waste Management is now the owner of the franchise including the Tri Sect Landfill. They are now taking advantage of all of the positives of the contract and ignoring those items in the franchise agreement that favored the county.

They have now closed the office in Valencia County and moved the business operation to Rio Rancho. This eliminated the gross receipt tax paid to the county; they are not paying the franchise fee and are ignoring the subcontractor agreement made to Mr. Sisson's company.

Mr. Sisson asked that the Commissioner's consider buying or leasing the Tri Sect Landfill and then open hauling operation to true competition by local companies. He said he is willing to meet with the Commission to present the capabilities of his company. He has plans to expand his business. He has a relationship with Southwest Disposal and they are willing to supply him with the equipment and manpower to handle significantly more than he does now, possibly even purchasing the Tri-Sect Landfill.

Les Mabe stated he has been listening to this problem and from twenty years ago, the county has cleaned up a lot. He saw an open trash dump just south of the south fence on the Cordova Ranch, east of Monterrey Park. It is almost an acre in size. He asked why this was being permitted. He said the residents were promised, over a decade ago that there would be multiple dumpsites in this county. He said he could not see someone driving from Jarales Road to dump trash at the Conejo Transfer Station. He is not for compulsory trash pick-up.

Ken Wright said Waste Management should have to open the Tri-Sect Landfill or lose their permit.

Marlene Fuer of Waste Management said the contract does not call for having a landfill in the area. The garbage is picked up and taken to a landfill. They are meeting the terms of the contract. She said Waste Management continues to pay gross receipts tax to Valencia County on all the trash pickup that they do in Valencia County. They have not raised rates. The contract is up for renegotiations in September. At that time they will do a financial study to see if the rates will stay the same. She said they have gone, within the county, where no other hauler will go. She said they believe they do a good job and she will be glad to address any problems on an individual basis.

Chairman Aguilar asked Ms. Fuer questions regarding a constituent's bill. Ms. Fuer said, "We had a correction and Mr. Fernandez should have received a call from our office. We are converting our computer over to Y2K compliant and we had a computer glitch. Maybe Monica had gotten the message. We are straightening those bills out. It hooked into our Rio Rancho franchise fee, not just here, but all over. We apologize."

Commissioner Al Padilla asked if there was a chance that Tri-Sect might open again at a later date. Ms. Fuer said, "We have been informed by the Environment Dept. and we know that the other haulers are not taking their trash to Rio Rancho. Most of them are taking it to southwest or to the City of Albuquerque. We have to travel 50 some odd miles as well. Someone said we don't have enough trash for it to be cost effective for us to run a subtitling facility. We have informed the Commission, it is not cost affective. It needs a larger amount of volume to run Tri-Sect for a company to make money. If a public entity can do that without having a profit motive, that might be something to consider. We approached the county and said if you'd like to look at Tri-Sect, that is fine, but right now I do not see Waste Management opening that landfill again at this point."

Commissioner Frank Pando asked how many other communities were serviced by Waste Management? Ms. Fuer said they service almost 40 contracts in the State of New Mexico and they operate 5 landfills.

Commissioner Eloy Giron said, "I understand you've opened the door for the county to look at Tri-Sect, but where I sit I have never seen numbers of what Waste Management would be looking at in getting rid of the facility. We still haven't heard numbers one way or the other. In the near future I would like to see some numbers on that."

James Fernandez said, "What we are hoping to do is after all of the public hearings have taken place is to set up a meeting with the Central Solid Waste Authority of Valencia County to see if there is a possibility of looking at all options available including Tri-Sect."

Chairman Aguilar said they were inviting Bosque Farms, Los Lunas and Belen to the meeting.

(B) PRESENTATION OF SENATE MEMORIAL 32/EI Cerro Fire Station

Chairman Alicia Aguilar read Senate memorial 32. Senator's Michael S. Sanchez and Joseph A. Fidel introduced it. It is a Memorial requesting the State highway and Transportation and the General Services Departments to cooperate with Valencia County to identify land that be used to relocate the El Cerro Fire Station. **(See Exhibit C)**

(C) PROCLAMATION/Child Abuse Prevention Month

Pamela McKenzie, County Manager for Children, Youth & Families Protective Services in Valencia County, presented a proclamation for Commission approval. This proclamation is requesting that April be named "Child Abuse Prevention Month" in Valencia County and call upon the citizens of the County to observe this month with appropriate activities and awareness that Valencia County's children are our most precious natural resource and our hope for the future of our great state.

Commissioner Eloy Giron made a motion to approve this proclamation naming April as "Child Abuse Prevention Month." Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit D)**

(D) REQUEST PERMIT FOR TEMPORARY CLOSURES/Harrison, Claudine and Jensen Roads

Bruce Meyerson of El Paso Natural Gas Co. said this is a request for issuance of a permit for the temporary closure of Harrison, Claudine and Jensen Roads in sections 27, 28, and 34, T5N, R1E in Valencia County. He said El Paso Natural Gas Company owns and operates a 30-inch pipeline across the three mentioned streets. This pipeline pre-existed the roads. Two times yearly, El Paso performs dot required shut-downs of various compressor stations supplying gas to this pipeline and existing meter facilities serving the City of Belen, New Mexico. These shutdowns jeopardize the continuous supply of natural gas to the city during the maintenance periods. El Paso proposes to install adjacent and within the existing 30-inch facility right of way, a 4 1/2-inch flow line to ensure the continuous supply of natural gas to the meter sites. Work is to coincide with the scheduled compressor station shutdown during March 1st through May 15th, 1999.

Commissioner Helen Baca made a motion to approve the temporary closure of Harrison Road, Claudine Road and Jensen Road. Commissioner Al Padilla seconded the motion. Motion carried.

(E) RESOLUTION/CO-OP/SCHOOL BUS/CAP PROJECTS FOR 1999/2000

Helen Cole presented Resolution 99-10 for Commission approval. The resolution is to utilize a Co-Op #SP-3-00(903), CAP #CAP-3-00(413), and School Bus #SB-7761 (973) Agreement with the New Mexico State Highway and Transportation Department.

Commissioner Eloy Giron made a motion to approve Resolution 99-10. Commissioner Al Padilla seconded the motion. Motion carried. **(See Exhibit E)**

(F) ROAD MILEAGE CERTIFICATION FOR 1999

Helen Cole requested approval for the Road Mileage Certification. There was a correction made whereby Cypress Gardens had been listed in Commission District 5 and it should be in Commission District 2. The total mileage is 1,214.731. The total mileage of paved roads is 173.825. The total mileage of dirt roads is 1,040.906.

Commissioner Eloy Giron made a motion to approve the road mileage certification for 1999. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit F)**

(G) REQUEST FOR OUT-OF-STATE TRAVEL/DENVER, CO.

Steve Sanchez, Animal Control Director requested permission for out-of-state travel for Marcial Jaramillo and Ruben Aguilar to attend two seminars. One is for the Chemical Immobilization Workshop and Law Enforcement Training for Animal Control Officers. These seminars will be held April 12th through April 16th, 1999. Mr. Sanchez requested that this be paid out of the Educational Fund.

Commissioner Al Padilla made a motion to approve the out-of-state travel for the two Animal Control Officers. Commissioner Eloy Giron seconded the motion. Motion carried. **(See Exhibit G)**

(H) REQUEST PERMISSION TO PUBLISH AND CONDUCT AN AUCTION

Sheriff Juan Julian requested permission to publish notification of an auction to be held on April 24, 1999, from 10:00 AM through 4:00 PM. Viewing of the items will be held on April 23, 1999 between the hours of 10:00 AM and 12:00 PM. The Sheriff said the list of items needs to be prepared so that it can be presented to Carol Anaya and sent to the Department of Finance for approval.

Chairman Alicia Aguilar said she would like for the Commission to see a list. She asked if this would be enough time to obtain a list, publish it and get approval from D. F. A. by April 24th.

Commissioner Eloy Giron made a motion to allow publication of the auction, leaving the date open so all notification requirements can be met. Commissioner Frank Pando seconded the motion. Motion carried.

(I) RESOLUTION/SUPPORT OF GREENWAYS APPLICATION/V.I.A.

Jacqueline Guilbault from V.I.A. presented Resolution 99-11 for Commission approval. The resolution is to support the Greenways program and commit to funding to be specified in a Joint Powers Agreement. This allows VIA to use grant funds to build a bicycle and pedestrian path along community use sites and along or cross some county road right-of-way.

Commissioner Al Padilla made a motion to approve Resolution 99-11. Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit H)**

Commissioner Frank Pando commended VIA for the good job they are doing. Chairman Alicia Aguilar thanked VIA publicly for the fine job they are doing. It is a great benefit to Valencia County. County Clerk Kandy Cordova said she could hardly wait to have a safe place to ride bikes.

(J) AMENDMENT TO ZONE MAPS

RR to PL, Single Family Residential Lots, VIA

RR to CD, Multi-Family Residential & Commercial, VIA

RR to CD, Harvey Yates

RR to SP, Industrial Park, Harvey Yates

Mike McCartney stated this is a request to amend zone maps. The first two items deal with Canyon Del Rio. This is a request by Valley Improvement Association for clarification and guidance regarding Valencia County Zoning Regulations governing Canyon del Rio Units 1-14 and Tierra Grande Units 6 and 8 (hereinafter the "Subject Property"). The public records surrounding the development, adoption and implementation of the zoning ordinance in 1987 and 1988 permit different and conflicting conclusions as to the zone district classifications adopted for the subject property. The property was subdivided and platted before the adoption of the zoning ordinance in 1987.

It is clear from historical records that Horizon Corporation's master plans and sales representations designated Unit 8 of Tierra Grande as "commercial", Unit 6 of Tierra Grande as "industrial" and various areas in Canyon del Rio as single family residential, multifamily or commercial.

It has become clear that the present zoning designations in Valencia County are not particularly suited to governing the development of large commercial and industrial sites such as exist in Units 6 and 8 of Tierra Grande.

In Valencia County's review of its regulation of land-use, Valencia County is developing uniform and comprehensive countywide standards governing the development of subdivisions, including residential sites, commercial sites and industrial sites.

To assist in resolving the applications that are now before the Board of County Commissioners, VIA and Yates have agreed, with respect to the subject property, that upon adoption of this Resolution, VIA and Yates will withhold all applications for county land-use approvals for the subject property a period of six months while Valencia County reviews and considers the adoption of uniform standards of countywide application pertaining to commercial, industrial and residential development.

The land-use designations for governing Canyon del Rio Units 1-14 and Tierra Grande Units 6 and 8 established by the county-approved Horizon Plats and supporting historic documentation shall be honored by Valencia County, provided that applicants seeking land-use approval from the County (including Yates and VIA with respect to their subject property), shall demonstrate compliance with all rules, regulations, ordinances and procedures of county-wide application, including environmental regulations, that at the time of the application regulate and govern that particular use of land.

In order to honor the historic land use designations of the Subject Property Valencia County shall within a six month period establish zoning designations properly applicable to the residential, commercial and industrial zoning designations applicable to the Subject Property, but which shall also apply equally, on a countywide basis, to any other similarly situated residential, industrial and commercial land in Valencia County.

County Attorney Tom Garde said, "I would propose that we take these items separately and have Mr. Davey make a presentation and then go to the next item which would be Mr. Yates. The resolution before this Commission involves both lots. It is my understanding after a conversation with Anthony Williams that both Mr. Yates and Mr. Davey on behalf of VIA will adopt this same resolution, which will be a commitment on their part. They in fact will adopt the same intent as the Commission if in fact the Commission does adopt this resolution. I think before we get to that part we ought to hear from Mr. Davey."

Bob Davey with the Valley Improvement Association said the property they are concerned about belongs to their members. It can be remembered as the old Sedillo Ranch on the east mesa, east of Belen. Horizon Corp. acquired this property in the late 1960's. It was sold off to several thousands of people all of whom are members of the association. It was subdivided into 10 or 11 thousand parcels. It is approximately fifteen thousand acres. It was masterplanned and platted and the County Commission in the early 1970's approved the plats. They are on file in the County Clerk's Office. Mr. Davey said, "The property is cut up into 14 units, each of which has anywhere from 500 to 1,000 lots in it. The concern that we have is that there is no clear-cut understanding or record as to what this property has been zoned as. We are assuming that this was zoned "rural residential" because there is a map in the planning office that has "RR" on this particular parcel. However, as Mr. McCartney can attest to, there are no records, there is no documentation, there are no existing zoning maps that clearly delineate what this property is zoned as. The map that is in Mr. McCartney's Office came from our office and was hand drawn by one of our staff based on her recollection of a map she saw back in the late 1980's in the courthouse. The problem with having this zoned "RR" is that 93% of the lots in that subdivision do not fit the "RR" classification."

"93% of the lots are not big enough to be used for "RR" purposes. Effectively even if the Association and its utility company were to go in there and install a central water and sewer system, that property could not be used because it is not "RR" and "RR" demands one acre or more size for each lot. Thousands of people own property and are paying taxes on property that they literally cannot use. We talked to Mr. Chavez, Mr. Garde and Mr. McCartney and I think all of them are concerned about the situation that exists. I think all of them agree that it is wrong. We're not going to go back years ago to find who messed up and what happened. It is really irrelevant at this point. What matters is that we proceed from here on out with some kind of zoning classification that is

profitable and useful. The suggestion that was made by county staff was that we take the lots in Canyon del Rio and zone all of the single family residential lots, no matter what their size as "Preplatted Lands" and that we come back and zone the commercial property and the multi-family property as "Community Development". Mr. Davey showed a plat of the property in question.

"The county staff is working on a redefinition of the zoning classification and I know that both Mr. Chavez and Mr. McCartney have expressed concerns about the pre-platted lands designation and they want to make sure that that designation is something that is beneficial to the County and to the people who own that property. We have already committed ourselves to working with them on that redefinition. The situation that exists out there now is impossible of our members who own that property. It is not fair. It has literally taken away the use of their property. What we wanted to do was change it in accordance with the suggestions made by the county staff."

Steven Chavez said, "I think it is important to know that the application for the changes in zoning were submitted to Mike's Office prior to the moratorium being in effect. This wasn't impeded by the moratorium. I believe that Mr. Davey recognizes as well as we recognize that preplatted lands designation as it currently exists is dysfunctional. It doesn't allow for the standards that should be in place. It doesn't allow for anything. There is really no guidance. The unique character of the application sets this proposal aside from any other proposal with similar situated preplatted subdivisions. We very rarely use the "Preplatted designation".

Harvey Yates stated, "The history of the Horizon Development is essentially this, Horizon established, in the vast subdivision called Tierra Grande, a core area composed of a commercial area and an industrial area. When they sold lots to people in Tierra Grande they were asked, where are people going to work? Their answer was, we have an industrial area and a commercial area. They used, in selling lots, in all of the units in Tierra Grande; they used color-coded plats. They used one in Unit 8 and it is color-coded commercial, in Unit 6 it is color-coded industrial. Horizon, by law, was required to issue a property report and hand-deliver it to anyone who was contemplating buying property anywhere in Tierra Grande. On page 7 of the report we have designated the lots in Unit 6 as industrial lots and the lots in Unit 8 as commercial lots. Subsequently Horizon got into trouble both with the State and with the Federal Government and as a consequence the Federal Government sued Horizon as did the State and after several years of litigation, the Federal Trade Commission made a decision and the decision is a very thick decision. I have here only two or three pages, which are relevant. These are words of the Federal Trade Commission, "Horizon has a core area in Tierra Grande consisting of 3300 acres platted as follows: 2000 acres in industrial, 1300 acres commercial. This graft was in there because the Federal Trade Commission was very interested where all of these people to whom Horizon was selling property to were going to work. The areas referenced are Unit 6 and Unit 8. Subsequently this Commission, years ago, agreed to issue industrial revenue bonds for that area." Mr. Yates presented to the Commission, copies of the industrial revenue bonds signed by the Commission at that time.

Mr. Yates said, "In 1987 Valencia County undertook zoning. This area may well have been zoned RR. There is a question about that because as Mr. Davey explained there are no maps in existence. The question of how the area is zoned because there was a map on the wall of the Planning & Zoning that was not created by a county employee, which labeled it RR. We, of course were concerned and that is why we are here. This, I hope is the end of several months or actual years of effort to get this problem resolved. Subsequent to the zoning that purportedly would have this property RR, Valencia County participated in advertising the industrial property as industrial property." He showed a plat out of the Valencia County Economic Development Committee. He said this was material that was circulated in an attempt to bring people into Valencia County to create jobs and the property requested is shown. He pointed out that the post date is after the zoning. How could it be industrial and RR at the same time?

Commissioner Frank Pando asked, "In the event that there is industrial development or whatever out there, you would have to be required to come before the County and ask for a conditional use permit and whatever is necessary or let us know as to what is going on in that area in the future, correct?"

Harvey Yates said, "The present request is for Special Purpose and that is true there. If there were an industrial zoning provided for, that the County Zoning Regulations, in my opinion need to be revised because they do not fit very well this circumstance. Then it depends on what the regulations are. Under the present conditions the answer is yes."

Mike McCartney said, "As it stands now over the current zoning, it would require a conditional use permit. Part of the resolution that you have before you is an agreement by Mr. Davey and Mr. Yates with the County that they will meet whatever performance standards that Mr. Chavez comes up with that we can work with together."

Chairman Aguilar said, "Item J says, "To assist in resolving the applications that are now before the Board of County Commissioners, VIA and Yates have agreed, with respect to the Subject Property, that upon adoption of this Resolution, VIA and Yates will withhold all applications for county land-use approval for the Subject Property a period of six months while Valencia County reviews and considers the adoption of uniform standards of countywide application pertaining to commercial, industrial and residential development."

County Attorney Tom Garde said, "One thing that is of concern to me is, that we have a Resolution that this Board is being asked to adopt, but I would also like to see basically an amendment to the Resolution where in fact Mr. Davey and Mr. Yates accept this Resolution as a commitment that they will abide by this Resolution."

Mr. Yates said that was intended and they will be glad to sign the Resolution.

Commissioner Al Padilla made a motion to approve Resolution 99-12 and go with the recommendation of the Attorney that Mr. Yates and Mr. Davey sign the Resolution as their acceptance of the conditions. Commissioner Eloy Giron seconded the motion. Motion carried. **(See Exhibit I)**

(K) TOME VISTA UPDATE/STATUS REPORT

Mike McCartney said, "At the previous County Commission meeting you set April 5, 1999 to make a final decision to make preliminary plat approval for Tome Vista. You asked, at this time for a status report. In your packet you have a letter from the Valencia Soil and Water Conservation District that the developers of Tome Vista have met their requirements and have received a positive response. There was one other concern regarding the State Highway & Transportation Dept."

Bill Campbell said they were asked by the Highway Dept. to do a recent traffic count at the intersection of Highway 47 and 263, which is currently getting ready to be realigned. The count was done on the 17th of March. He should have the final analysis of that by Monday of next week. He is looking for a favorable response from the Highway Dept. by the April 5th meeting.

(L) DEDICATION FOR MAINTENANCE/DRAINAGE/CYPRESS GARDENS

Mike McCartney said this is a request for maintenance for roads that are indicated in the packets. The roads are Cypress Blvd. from Hermanos Ct. to Alamosa Loop, Paraiso Rd. from Cypress Blvd. to end of cul-de-sac and Alamosa Loop from Cypress Blvd. to Cypress Blvd. The drainage from Paraiso and Alamosa to the Pond.

County Attorney Tom Garde said, "I looked over the packet and my understanding of the Ordinance is that it is required to have three viewers to look at them." Mike McCartney said, "Only on dirt roads. It is only required on dirt roads that are requested for maintenance and in the past, the roads for Cypress Gardens are very well done. There are no specs for any road viewer, as far as paving. That is why we sent the Road Superintendent out."

Pat Owens said the drainage ponds would be fenced at Cypress Gardens expense. She said, "Another issue that I want to bring up is, the sand has been blowing up there and some of the roads have sand on them. We will be cleaning the roads at our expense also."

County Attorney Tom Garde said, "My concern would be if the Commission were to accept these roads without these items being taken care of, you are exposing yourself to liability. At such time as we have the signs and fences up, it would be premature to accept it today."

Mrs. Owens said, "The signs are up at this time and if you want to go ahead and approve the roads, I would appreciate that and at the time that we have the ponding fence we can come back in at that time." Tom Garde said, "The problem is that the ponding is still a county liability. If we accept the roads, the ponding is within the roadway. We can't accept one without the other. Without the ponding, the drainage from the road goes into the ponding. My recommendation is to table this matter until such time as the fence is in place."

Commissioner Al Padilla made a motion to take the advice of the attorney and table this item. Commissioner Frank Pando seconded the motion. Motion carried.

(M) AMEND ZONING ORDINANCE 87-3/Permanent Foundations

Mike McCartney stated, "As you all know there was litigation in regards to our ordinance regarding permanent foundations. The New Mexico Manufactured Housing Association did request a temporary restraining order trying to prevent us from enforcing our ordinance. District Judge John Pope denied it. With the assistance of County Attorney Tom Garde we worked with Mark Duran, the Executive Director of the Manufactured Housing Association. The lawsuit has been dismissed with prejudice, which means they cannot file it again. You have before you Section 6 and Section 7. Basically what it was, was a wordage issue. We removed some words that they weren't comfortable with and added some terminology of our own. Mr. Duran said he appreciates the County Attorney and the Commission working with him. He would like to address this body in the near future regarding public relations. He does appreciate the ordinances that this County has passed regarding manufactured housing. Before you are the amendments that are acceptable to all bodies."

Commissioner Frank Pando made a motion to approve the amendment to the Zoning Ordinance. Commissioner Eloy Giron seconded the motion. Motion carried. **(See Exhibit J)**

(N) COUNTY MANAGER'S REPORT

County Manager James Fernandez reported on the following items:

- ◆ Had conversation with the County Lobbyist. He will be submitting some information to be passed on to the Commission as to what happened during the recent Legislative Session. The Capital Outlay section of the budget is liable to be vetoed by the Governor. The County was trying to seek funding for capital projects in Valencia County, including road projects, culverts, bridges, there were about 12 projects the County was working on. We will have to wait for the Special Session to see if they will be incorporated in.
- ◆ April 6 - 7 between the hours of 8 and 4:30 in the County Commission Room, the architect that the County has hired will have onsite designs. At the convenience of the Commission they can come by on one of the two days to see what they are doing in terms of starting the design for the new Adult Detention Facility.
- ◆ This passed week on the 19th, a Data Processing meeting was held with all of the departments in the County. He presented the Commission with a handout of that meeting and some of the items that were discussed. One of the items that Mr. Fernandez wanted to make the Commission aware of was, on the IBM AS400 that the County has, IBM will no longer service that piece of equipment and they will have to look into replacing it. One of the things that was done was to have meetings with each of the individual departments as to what their needs for the future might be. When equipment is acquired we can see that those needs are met. In the next two to three months, the software has already been modified by the software provider to allow for automated payroll, automatic payroll deposits and electronic requisitions and purchase orders, so that none of these items will have to be duplicated by the departments.

- ◆ One of the other things that is being looked at is doing electronic imagery. Each of the departments that have microfilming projects that they are currently in the process of doing, the new software and the new equipment that is being looked at will allow for imagery to be scanned and that will be archive quality. It is one of the items that the Clerk's Office has been looking at. It has allocations for Administration, the Jail, Detentions; the Sheriff's Office and they are looking at incorporating all of those departments into this.
- ◆ Mr. Fernandez had conversations with Chairman Aguilar, Larry Mervine and Lawrence Kaneshiro regarding the development of a website for the County. We would be able to put the County Commission agenda as well as information on each department on the website so that the public could have access to it, as well as the Planning and Zoning agenda. There was a short video that was presented on the Y2K problem. The County is currently going through all of their equipment to make sure that it is Y2K compliant.
- ◆ The Middle Rio Grande Leadership Forum that was scheduled for Belen has been rescheduled for March 30, 1999 from 8:00 AM to 12:00 PM at the Hoffmantown Baptist Church.
- ◆ The end of the week a meeting will be held with the Road Department to go over their equipment and taking inventory of it to see what needs to be replaced, what items might be salvageable.
- ◆ The Highway Department meeting that was to take place in Cuba on the 19th, we were unable to attend the meeting because of the weather. A letter was sent to Steven Harris, the District 3 Engineer inviting him to come to Valencia County to bring the Commission up to date on any type of road projects that might be going on in Valencia County.
- ◆ We had information forwarded to the Commission from Charles Diebold on F.E.M.A. He provided us with a video to be passed around among the Commissioners for viewing. Chairman Aguilar said she called F.E.M.A., but she spoke with the engineering consulting firm, Michael Baker & Assoc. She was informed that they would have something to the County within the next 60 days. They have reviewed all of the information sent to them. They will be submitting it to F.E.M.A. and F.E.M.A. will be providing it to the Commission.
- ◆ An update on the G.I.S. Project, interviews will be conducted on the later part of the month.
- ◆ Martin Romero called regarding a cleanup of trash in Valencia County. They have set aside April 10th for a cleanup from the Valencia area all the way to Allsup's in Rio Communities
- ◆ An update on the roof project for District Court. With the recent snow and rain, the roof has started to leak and create problems. Some initial estimates were \$31,000.00. They are checking with the insurance carrier to see what it will cover.

(O) AWARD OF BIDS:

Bid #491, Water Wells & Connection to Overhead Tank

Bid #492, Scott Air Paks, SCBA

Bid #490, Courthouse Remodeling

County Fire Marshal John Cherry requested Commission approval to award bid #491 to Rodgers & Co. of Albuquerque in the amount of \$22,939.00 with the option of \$42.00 per foot over and above 170 foot. This is for a large fire suppression well at the Peralta Fire Dept. Mr. Cherry said they went to bid for this one time and they were unhappy with the specifications. They rejected the bids and went out to bid again.

Commissioner Frank Pando made a motion to award bid #491 to Rodgers and Company in the amount of \$22,939.00 with the option of \$42.00 per foot over and above 170 feet. Commissioner Helen Baca seconded the motion. Motion carried.

County Fire Marshal John Cherry presented Bid #492 for Scott Air-Pak SCBA for the Los Chavez Fire Dept. They recommend the bid be awarded to First-In Inc. in the amount of \$11,828.00.

Chairman Alicia Aguilar made a motion to award the bid to First In Inc. in the amount of \$11,828.00. Commissioner Al Padilla seconded the motion. Motion carried.

Chairman Alicia Aguilar asked about the drinking water at the Los Chavez Fire Dept. Mr. Cherry said they were buying bottled water for drinking.

Chairman Aguilar said, "I understand that the Road Dept. was going to do some work or some graveling or paving and then they sent the Los Chavez Fire Dept. a bill for \$3,500.00." Mr. Cherry said the bill was \$3,600.00. Chairman Aguilar said, "There was an agreement there that they weren't to be billed? I'd like clarification." John Cherry said, "We were approached that there was going to be a road paving project on SeaBell Road. We were told there would probably be an overrun in materials and would we like to have the overrun in material placed at the Los Chavez Fire Dept. We agreed that it would be great. We assumed it was to be at no charge, later we received a bill for \$3,600.00 for the asphalt itself, which we have taken care of." Chairman Aguilar said, "This has also put a crunch on the budget because you didn't anticipate that." Mr. Cherry said, "We did not budget for it because we thought it was 'pennies from heaven' and it turned out not to be so." Mrs. Aguilar directed the County Manager to go back and check on this issue because if it was supposed to be gratis or that was the agreement, she would like it looked into. She said, "The Fire Department's really watch their pennies, all of them do. An amount like this really takes from other projects."

County Manager James Fernandez presented Bid #490 for the Courthouse redecorating project for Commission approval. This bid was done in four lots, the first lot being for the front entry airlock, second lot was for remodeling the Health Dept. and the Clerk's Office, the third lot was for the landscaping and statue in front of the Courthouse and the fourth lot was for the construction of a small courtroom currently occupied by the Personnel Department. Mr. Fernandez said, "Attached you have the recommendation of our architect, John Friedman, after reviewing the bids that we received, I would also concur. Bid Lot #1: New Front Entry Airlock, the bid be awarded to State Contractors in the amount of \$58,390, Bid Lot #3: Landscaping & Statue, the bid be awarded to LTV Construction in the amount of \$23,340, Bid Lot #4: Construction of a New Courtroom, the bid go to D. A. Baker Construction in the amount of \$20,350. All bids on Bid Lot #2 be rejected, the specific reason for that is each of the three bid lots, 1, 3 and 4 do meet requirements in terms of A.D.A and code requirements. Bid Lot #2 does correct any of the problems that we have in terms of A.D.A. and construction problems. What I would propose is rather than doing the construction as bid on Bid Lot #2 that the County move the Administration portion of the County into the old Health Dept. and that we do nothing more than put a drop ceiling, carpet and paint it. We're looking at a cost of about ten to fifteen thousand. I have had conversation with the Clerk's Office about moving the Bureau of Elections into the existing section that is currently being housed by the administration of the Fiscal and County Manager to be used solely for the Bureau of Elections. Those are my recommendations."

Commissioner Frank Pando said, "I would like to comment on this bid. There is a lot of disparity between prices, for example installing landscaping & statue, one is 23, one is 44 and one is 40. If you look at construction of the courtroom, one is 22, one is 20 and one is 23. The reason guys do this; they bid low on one item to try to get the whole job. I'm in favor of trying to give all of the business we can to the local guys rather than to someone from out, if we can. I notice that there is less than \$3,000.00 between LTV and DA Baker on the bid lot #4. I would like to see LTV get both of those. We are not bound by the lowest bidder are we?"

Commissioner Eloy Giron agreed with Commissioner Pando. He said all of the bids are real competitive. The other bids are respectable bids from other cities. If these bids are granted to the local contractors, not only the gross receipts tax, but also all of the money will be staying here. He said he would support Commissioner Pando on this.

Chairman Alicia Aguilar said, "For the new front entry airlock, we're talking \$58,390 from State Contractors, from LTV it came in at \$80,394. and from D.A. Baker it was \$85,800.00." Commissioner Pando said he was not trying to change that one, but Lot #3 and #4 to LTV Construction.

Chairman Alicia Aguilar asked the County Attorney if they need to go with the lowest bid. County Attorney Tom Garde said, "We need to justify why we are not accepting this bid." Commissioner Pando said, "Everybody is saying shop at home and save 5%, what we are doing is throwing away our money to other communities. I think that would be enough justification."

Chairman Aguilar said, "I respect your opinion, but I still think we are dealing with taxpayers money and I think we need to look at the best quote."

Commissioner Helen Baca made a motion to approve the County Manager's recommendation. Commissioner Al Padilla seconded the motion.

Commissioner Frank Pando asked the Counselor what would happen if the person that was awarded the bid for \$20,000.00 decides he doesn't want the job. Tom Garde said you would then go to the next lowest bidder.

Motion carried with Commissioner's Baca, Padilla and Aguilar voting yes. Commissioner Giron and Commissioner Pando voted no. **(See Exhibit K)**

(P) WARRANTS

County Manager James Fernandez presented the Warrants for Commission approval.

Commissioner Frank Pando made a motion to approve the Warrants. Commissioner Helen Baca seconded the motion. Motion carried.

(Q) COMMISSIONER'S COMMITTEE'S REPORT

There were no committee reports.

NEXT MEETING

The next Regular Meeting of the Valencia County Board of County Commission will be held on April 5, 1999, at 8:30 AM in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Frank Pando made a motion to adjourn the March 22, 1999, Regular Meeting of the Valencia County Board of County Commissioners. Commissioner Helen Baca seconded the motion. Motion carried.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the March 22, 1999 Special Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

ss

ALICIA AGUILAR, CHAIRPERSON

ss

AURELIO H. PADILLA, VICE-CHAIRMAN

ss

HELEN BACA, COMMISSIONER

ss

ELOY GIRON, COMMISSIONER

ss

S. T. FRANK PANDO, COMMISSIONER

ATTEST: ss

KANDY CORDOVA, COUNTY CLERK

DATE: April 5, 1999

For an official copy of these minutes and attachments see Commission Book 33 Page 930