

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

JUNE 7, 1999

MINUTES

The Regular Meeting of June 7, 1999 was called to order by Chairperson Alicia Aguilar at 3:00 PM.

PRESENT	ABSENT
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	

EXECUTIVE SESSION

County Clerk Kandy Cordova read the agenda for the Executive Session as presented.
Commissioner Frank Pando made a motion to approve the agenda for the Executive Session and to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.
Commissioner Frank Pando made a motion to return from the Executive Session. Commissioner Eloy Giron seconded the motion. Motion carried.
Carol Anaya stated during the Executive Session discussion was held on the following:

NEW HIRES: (pending physical and drug test)	Michael Abeyta Juanita Jones
PROBATIONARY TO NON-PROB.: (with salary adjustment)	Jimmie Silva Pauline Alvarado
TRANSFER:	Martin Chavez
SEASONAL HIRE:	Orlando Montoya
TERMINATION:	Henry Garcia
LEAVE WITHOUT PAY:	Billy Gallimore
EXTENDED LEAVE WITHOUT PAY:	Ernesto Padilla

Commissioner Eloy Giron made a motion to ratify action taken during the Executive Session. Commissioner Frank Pando seconded the motion. Motion carried.
County Attorney Tom Garde stated "During the Executive Session we discussed the pending litigation regarding Bonito Land & Livestock, the David Silva Lawsuit concerning the Diebold Estates, the Van Tol Bankruptcy and the Sun Valley Appeal. We also discussed the appellate status of the FEMA Appeal by the County. With regards to all of those items, no action was taken."
County Manager James Fernandez stated there were a couple of personnel matters that due to time limitations were not discussed. He asked that a short Executive Session be placed on the agenda as Item R.
Commissioner Frank Pando made a motion to the effect that all that was disclosed was all that was discussed in Executive Session. Commissioner Eloy Giron seconded the motion. Motion carried.

INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF

Chairman Alicia Aguilar introduced Commissioner Helen Baca, Commissioner Al Padilla, Commissioner Eloy Giron, Commissioner Frank Pando, County Attorney Tom Garde, County Clerk Kandy Cordova, Paula Weathersby, Sheriff Juan Julian, Planning & Zoning Administrator Mike McCartney, County Planner Steven Chavez, Human Resources Director Carol Anaya, Business Manager Carlos Montoya, County Manager James Fernandez, Administrative Asst. Monica Mireles, Arley Sanchez from Journal South and Kathy Saltzstein from the News-Bulletin.

PLEDGE OF ALLEGIANCE

Leonard Garcia led the Pledge of Allegiance

APPROVAL OF AGENDA

County Clerk Kandy Cordova read the agenda as presented. Commissioner Eloy Giron said under Public Requests, Leonard Garcia and a representative from the MeadowLake Watch would like to address the Commission.

Others requesting permission to speak under Public Requests were Jacqueline Guilbault, Drew Markal, Wanda Burson and John Foreman. County Manager James Fernandez said on Item B should be listed as a public hearing and final consideration for an Ordinance for Bonding for the Adult Detention Facility.

Commissioner Frank Pando made a motion to accept the agenda with the additions. Commissioner Helen Baca seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES

The Minutes of the May 10, 1999 Special Meeting and the May 17, 1999 Regular Meeting were presented for Commission approval.

Commissioner Eloy Giron made a motion to approve the Minutes of the May 10, 1999 Special Meeting. Commissioner Helen Baca seconded the motion. Motion carried.

Commissioner Helen Baca made a motion to approve the Minutes of the May 17, 1999 Regular Meeting. Commissioner Frank Pando seconded the motion. Motion carried.

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

Leonard Garcia spoke on behalf of the MeadowLake Community Association. He thanked the Commission publicly for the decision they made on May 17, 1999 regarding the zoning for Bonito Land & Cattle Co and for making themselves available to the residents of MeadowLake regarding their concerns. He also spoke about the report made by David Holmes regarding MeadowLake Road. There are still concerns about the safety of the road. He said in Mr. Holme's report it said the road needed to be upgraded.

Commissioner Eloy Giron commended the residents of MeadowLake for looking out for each other the day of the storm. Regarding the report by David Holmes, he said he would like to make MeadowLake Road a priority when the Commission holds the final budget hearing.

Jacqueline Guilbault presented the Commission with a brochure regarding the Tome Hill Project. It is about Valencia County and Tome Hill. It has been in the works for three years. The brochure has maps, pictures and data regarding the Tome Hill Project.

Chairman Alicia Aguilar commended Jacqueline Guilbault and V.I.A. for their commitment to Valencia County.

Drew Markal, the Vice-Chairman of the MeadowLake Community Association said their association is going to become very active in the community and the county. He said one of the most important issues in that area is the Sheriff's Substation. He said they understand that some money was granted to the County. He requested that some of the grant money be earmarked for the MeadowLake Area and the El Cerro Mission Area. He said that the Sheriff attended one of their association meetings about five weeks ago and one of the issues discussed was the crime rate in the County. Sheriff Julian said 40% of the crime rate occurs in the eastern portion of the County. He said they have a facility in MeadowLake and one under construction in El Cerro Mission. There is space available in the Community Centers for a Sheriff's Substation and that would give them the protection that they need.

Chairman Aguilar said there was \$125,000.00 that was appropriated for a study for a hospital in Valencia County. Thanks to Commissioner Pando who headed the Hospital Committee, the County is now getting a study done for free, a managed care program is doing the study. She said, "the \$125,000.00 that was appropriated by the Legislature and \$62,500.00 has been appropriated as a Sheriff's Substation in the Southern part of the County, the Jarales, Bosque Area and \$62,500.00 is for the East Mesa. Hopefully it will be located in El Cerro Mission. In addition to that, and I thank Sheriff Julian in that there is a grant that administration and the Sheriff worked together to where we are getting 10 additional officers through the COPS Program. These are full-time officers plus 4 part-timers, so we are working on that project."

Wanda Burson said the newly formed association is dedicated to the betterment of the MeadowLake Community. She requested help in cleaning up the community. Mrs. Burson said there is only one way in and out of the community and in case of emergency there would be no way to get a caravan of people out of the community.

Chairman Aguilar said they would ask administration to take Mrs. Burson's comments to John Cherry and the Emergency Coordinator so that if there was a disaster up there they could have a plan available.

Commissioner Eloy Giron asked the Road Superintendent why the residents of MeadowLake were not able to use Fence Line Road. Louie Pena said the road was bladed last week. Leonard Garcia said the road was blocked off at Turner Road.

Les Mabe said Fence Line Road was dedicated in its entirety. Chairman Aguilar recommended that Mr. Pena and Mr. Fernandez get together and see what portion of the road has been dedicated.

John Foreman is the Community Watch Coordinator for MeadowLake and he is also concerned about the roads. He thanked Sheriff Julian and the Sheriff's Dept. for their support with their Community Watch Program. He also thanked the Fire Chief James Patraw for making the Community Watch part of the Fire Dept. Group as well, they are all working together to make the community a better place to live.

Chairman Aguilar said the Commission had a meeting with Risk Management and the Highway Dept. to see what solutions they could come up with on the roads. She said many of the roads are privately maintained. In order for the County to dedicate them, they would have to be brought up to County specifications. The County Attorney is also helping with the problem.

Commissioner Frank Pando commended the people from MeadowLake for getting involved. He said he hoped other associations in the County would do the same thing. The Commission needs citizen participation in order to do their job.

ACTION ITEMS

(A) RECOGNITION OF EMPLOYEE CAROL ROW, 20 YEARS OF SERVICE

Sheriff Juan Julian presented a plaque to Carol Row for appreciation of service. Carol is a dedicated employee of the Sheriff's Office of 20 years serving as Chief Communication's Officer for Dispatch. Carol Row said she really enjoys her work.

Commissioner Eloy Giron said the County could never repay Mrs. Row for the service she had done.

County Attorney Tom Garde said he has known Carol since 1980 when he started working with the District Attorney's Office. He said you could always call Carol for information. She has been an indispensable member of the Sheriff's Office for over 20 years. He said, "I think she has been an indispensable member of this community for over 20 years and I think it is a great honor to know someone like Carol. We appreciate your services Carol."

Sheriff Julian said it was a privilege to have someone as dedicated to county government as Carol. He said, "She has been a great asset to the Sheriff's Dept. while I have been Sheriff. Prior to that I worked with her when I was a State Policeman. She has dedicated her life to the citizens of Valencia County. She has given up a lot of her home life to assist the citizens of Valencia County."

(B) ORDINANCE/BONDING FOR ADULT DETENTION FACILITY

Katherine Creagan of the Modrall Law Firm presented Ordinance 99-01 authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the County and the New Mexico Finance Authority evidencing a special limited obligation of the County to pay a principal amount not to exceed \$5,500,000.00 together with interest thereon, for the purpose of paying debt service on bonds of the New Mexico Finance Authority issued to defray the costs of acquiring, constructing and improving an Adult Correctional Facility for the County; providing for the payment of the principal of and interest on the Loan Agreement solely from the County's Correctional Facility Gross Receipts Tax Revenues and the "First One-Eighth" of the County's Gross Receipts Tax Revenues; pledging the Correctional Facility Gross Receipts Tax Revenues and the First One-Eighth County Gross Receipts Tax Revenues to the payments required under the Loan Agreement; approving the form of and other details concerning the Loan Agreement, an Intercept Agreement and Indenture; providing for the adoption of a subsequent resolution determining final terms of the agreements; ratifying actions heretofore taken; repealing all action inconsistent with this ordinance; and authorizing the taking of other actions in connection with the execution and delivery of the Loan and Other Agreements.

Discussion was held.

County Attorney Tom Garde stated, "It is our understanding through our meetings with your office a couple of weeks ago that we are pledging the First One-Eighth and at the end of the first year that money would be released."

County Ordinance 99-01

Commissioner Helen Baca made a motion to approve Ordinance 99-01. Commissioner Frank Pando seconded the motion. Motion carried.

Intercept Agreement

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

Loan Agreement

Commissioner Helen Baca made a motion to approve the Loan Agreement. Commissioner Al Padilla seconded the motion. Motion carried. **(See Exhibit A for all three documents)**

(C) UPDATE ON DEDICATION OF BRAZZARO

Chairman Alicia Aguilar stated, "This road is located in my district in Monterrey Park and it came before this Commission about six or seven months ago. At that time, administration was directed to contact the subdivider of that subdivision and do some improvements on the road. They have met with administration and they're working on that. Once that is completed, there would be acceptance by the County Board for county maintenance on that road, is that correct?" County Manager James Fernandez said, "That is correct." Chairman Aguilar said, "My purpose for putting it on the agenda is to update you and let you know at this time that once these improvements are done, I would like to see acceptance of Brazzaro Road as a county dedicated road."

Mike McCartney said Mr. Eichwald was in his office on Friday and because of the storm, there was a delay, but he is supposed to call Wednesday so that they can go look at it with the minor improvements that were required. Chairman Aguilar said, "My recommendation is to just let administration take care of this and once those conditions are met, then I would move that we approve this as a County dedicated road." Commissioner Al Padilla seconded the motion.

Commissioner Eloy Giron asked if there was a report from the road viewers on this road. Chairman Aguilar said they did have the report and there was one viewer that said no, because they wanted some improvements done and that is what they have been working on. She said it is a mail route and a school bus route.

Motion carried.

(D) FEMA UPDATE

Charles Diebold reported on the following:

- September 17, 1998 - at the Daniel Fernandez Gym he showed the Diebold - Bailey tape showing that the levees between Isleta and Los Lunas were in good shape. Mr. Freier said the 100-year flood would be 11,533 cfs and not the 18,200-cfs of FEMA.

- September 23, 1998 - Letter written by Frank Gurule to FEMA sending the tape and endorsing the Village of Los Lunas report.
- March - Loaned the Diebold - Bailey tape to County Commission for benefit of new members. Tape returned in May.
- May 4, 1999 - Answer from FEMA received May 12th with answer required by June 4th.
- May 17, 1999 - FEMA was last on program of County Commission and not heard when everyone left at midnight.
- May 20, 1999 - Mr. Diebold phoned Mr. Beach at the Army Engineers requesting information as to the location where FEMA quoted the Army Engineers and said that levees need to be replaced due to slumping caused by erosion and piping. No information received to date from Army Engineers.
- May 27, 1999 - Sterling Grogan, Commissioner Pando and Commissioner Giron and Charles Diebold traveled the levees from Isleta to Los Lunas on both sides of the river. Not one slump, one piping was seen. Levees are in excellent condition.
- June 2, 1999 - Mr. Diebold talked with Commissioner Aguilar who wanted to send no comments to FEMA.
- June 2, 1999 - Gave his write-up to Mr. Freier on the levees and that the flood plain soils could absorb 9.8 inches from a 100-year flood. The highest summer flow August 14, 1980 could be easily absorbed before reaching Los Lunas if levees broke at Bosque Farms.
- June 4, 1999 - Gave copy of Los Lunas Village reply to FEMA to James Fernandez. The report did not include Mr. Diebold's findings.
- Freier report to Los Lunas does defend 11,533 cfs as the 100-year flood in summer instead of 18,020 cfs projected by FEMA. The FEMA projected flood includes 10,000-cfs base flow from Cochiti and Jemez Dams. These outflows are controlled by the Army Engineers to scour the river and reduce the amount of snowmelt water behind the dams. The largest summer flood since dams completed was August 14, 1980 when the base flow was 450 cfs.
- Freier report on page 9 says that aerial photograph of Harlan Ditch crossing Highway 314 shows elevation 2.3 feet above that given by FEMA. FEMA claims overflow of 0.3 feet at this point, therefore Los Chavez area should be eliminated from flood plain.

Mr. Diebold stated that the requirement of flood insurance in the so-called flood plain appears to be a handout to FEMA. The alleged need to replace the levees from Isleta to Belen appears to be a sixty million pork barrel project for the Army Engineers.

Commissioner Pando asked Mr. Diebold how the County could get out of FEMA if they wanted to. Mr. Diebold said that is a question for the County Attorney.

Chairman Aguilar said, "I'd like to clarify what you are saying that on June 2nd I wanted to send no comments to FEMA. Mr. Diebold I did meet with you and I mentioned to you that I would meet with our County Manager, our Attorney and I would ask each of the Commissioners if there was any factual information that we could provide to FEMA and I did do that and there was none."

Mr. Diebold said, "You did have my report and there was a report from the Village of Los Lunas that you could have endorsed, but didn't."

Chairman Aguilar said, "Mr. Diebold, I'm not going to argue with you, but there are two municipalities, two different appeals, two different areas. Los Lunas is totally different and not part of the county and in doing this, they are two separate issues. They are not joined together as far as one with the other." Mr. Diebold said, "In the past, they have been joined together and that's for the record."

Chairman Aguilar said, "Richard Padilla is the Flood Plain Coordinator. The letter that was provided to us on May 4th with a 30-day comment period, we made the public aware of it in a public meeting and there were copies that were distributed for public input. The letter specifically is not in appeal. It is a 30-day comment period."

Richard Padilla said he received a letter on May 17th. It is a comment in regards to the National Flood Insurance Agency. They have addressed all of the information from the previously preliminary maps. He said, "We have also sent to FEMA along with the Village of Los Lunas and they believe they have addressed everything that they have. At this present date, the amount of flow that was previously 14,800 is going to up 17,500 with the new preliminary maps according to FEMA and within three feet freeboard which it was probably about 2 1/2 feet freeboard previous map dated March 24, 1997. At the present time the National Flood Insurance Agency has given us information that if we do not have more information as regards to preliminary studies, if we do not have any more information, no technology, no engineering, no data, at this present time they will have to adopt the April 6, 1998 Preliminary Maps."

Chairman Alicia Aguilar said, "We did join in an appeal with the Village of Los Lunas last time and that was about a year ago. As a result of that appeal, the elevations went up about 6 inches. During all of this in getting information over the past eight or nine years, at no time have we been able to get out of the flood plain as far as boundaries. The only thing that could be disputed was the elevations. For the public's knowledge there is an ordinance on the books that the County Commissioners in 1991 passed and the ordinance does indicate that there has been death, there has been flooding and there has been damage due to flooding in this county. We do have a law on the books that we must comply with."

"There was an appeal period at that time and there was no response. When I learned about this in 1992, I became very involved in this. If you look at Bloom-N-Shine, if you look at El Cerro, those elevations were from 5 to 7 feet. We brought them down to 2 feet and in some instances just a few inches above the ground. What we are arguing is the accuracy of the study. They have come back; we have asked questions, they've responded, we have an appeal. There isn't an appeal anymore, all of the questions have been answered, and all that is left is the elevation. What we're

saying now is that we do have some information that we can consider the latest available data that the Commission just has to acknowledge. The County will then be using that information to notify the public, appraisers, surveyors in elevations plus that's the information that will be provided for insurance and FEMA. That's what we will be using. There are two areas; there's AE where the elevations have been established from FEMA. There is the A area where the elevations have not been established, but FEMA has just said it is risk to flooding. A area has higher insurance premiums than AE. The County has a responsibility to acknowledge these as the latest available data and start using these tools, the elevations provided to us by FEMA as the elevation that will now be used in construction. In A zone, now the County has to determine what is the latest available data that we have to establish elevations and that can't be a blanket. In additional information to surveyors and subdividers, the responsibility is on the subdivider to provide elevations for each lot now when we're approving subdivisions."

Discussion was held on the FEMA data with members of the County Commission and the members of the audience.

Chairman Alicia Aguilar said, "I'm going to make a comment. I've been involved in this for 8 or 9 years. I've put a lot of my own money into it as far as getting the study. It was the Association of Realtors that provided \$2,500.00 for the first cross section and the local realtors provided the other \$500.00 to make up the \$3,000.00. Ron Hibdon you were involved in that. At that time when I brought it before the Commission, no one wanted to hear about it, no one wanted to be a part of it, no one wanted to listen, but we were persistent and we did have a committee and we brought the elevations down. Hearings have been held, even on December 8th of two years ago, FEMA came down and they had a meeting at the high school. We were there Commissioner Padilla. They brought their engineer and they brought their surveyor. They brought their technical team for questions, about 30 people showed up. FEMA has come down about five times, they also came down about three years ago and they toured the levees with the Bureau of Indian Affairs, which is the long Chical or Hell Canyon Wash. Richard, you were there with us and we toured those to see if the levees met specifications. If I sound a little distressed, it's for someone to come up and say what can we do now, after nine years. Where have you been in the last nine years? We've been fighting it, everytime we turn around and we provide FEMA with information, we run against a block wall. We say the Corp. of Engineers provided us with this information. The U.S. provided us this information. It takes hundreds of thousands of dollars to fight them. No matter what we've come up with, we always seem to be on the losing end. It's either doesn't meet their specifications or not enough data or you didn't do it this way, it didn't meet the criteria, but we've hung in there. We've tried everything that we can. Counselor, is there anything else we can do?"

County Attorney Tom Garde said, "In regards to the appeal that the County made, that's the end of the road. The only remedy is potentially looking at getting out. The only effect of that is that we wouldn't qualify for any loans."

Chairman Aguilar said, "I wouldn't want to be paying flood insurance. I don't want people to pay flood insurance either. It's an extra cost that most of us don't want. I'm not going to be a politician and sit here and say we need to sit here and continue fighting on behalf of the people. What have we been doing for nine years? We're at the end of the road. I'm exhausted."

Richard Padilla said he has worked for the Flood Plain Program for about nine years also. He believes they have come to the end of it. He said, "I think the Commission should go for it and adopt maps according to the National Flood Insurance Agency, which is FEMA, and if anybody is still under comments or protests, they file on an individual aspect, whether it be one parcel or several parcels to eliminate the fact that they want to be excluded from these flood zone areas. There are different costs that will be involved, some being in excess of \$6,500.00, some being \$410.00." Chairman Aguilar said if someone doesn't want to be protected by flood insurance, there is a section whereby they can file to FEMA and they don't have to pay for flood insurance. If the property is ever sold, there may not be financing available."

Chairman Aguilar said she is certified in Flood Plain Management and has been involved for about nine years. She said, "There is an important aspect of this. If the County does not comply with the regulations and the information, FEMA does do community visits, they come down and tour the area and take photographs and come in and ask for a permit. If they see that we are in violation, violations could be since 1991 where mobile homes have not been placed on permanent foundations, we will be asked to go and comply; they must come into compliance. If they don't come into compliance within 60 days, FEMA comes back and we could be placed on probation, giving us now six months in which to comply. They come back in 90 days and if we still have not complied; they suspend us from the program. If we're suspended from the program, there will be no VA, no FHA, no conventional and no Federal Funds coming into this program. When we're arguing the accuracy of the study and we're saying we want to bring it down three inches or so, if we can't get out of it, we need to comply because that's where the severity is. Individuals that are saying I can't buy a house and I can't sell my home unless it's a cash loan or financing. That's the problem and that is the true reality of it. That's why I've been fighting it for nine years."

There was more discussion held on which maps will be used.

Chairman Aguilar said, "It's the direction of this Commission that Mr. Padilla use the maps provided to us confirmed by FEMA as the best available data in providing or requesting elevations."

Commissioner Frank Pando said, "This first started with an ordinance, correct? Can we appeal that ordinance and refuse?"

Tom Garde said, "You can do that, but the effect is that no one can borrow money."

Commissioner Giron asked how would they know. The County Attorney said, "My understanding of FEMA is that if we withdraw from FEMA, (1) there is the aspect being referred to, but secondly we have no coverage on any disaster. It's like a crap shoot." Richard Padilla said as FloodPlain Administrator, he would have to stop all construction in the area as mandated by the State. The Commission would have to say no building at all.

Chairman Aguilar said, "Two years ago, Commissioner Padilla, when we were in Washington D.C., we met with Allan Johnson to ask some of these same questions and we spent about six hours with him. We went into every scenario as far as what if we do this or what if we can't do that or why can't you prove that? Unless we can provide technical data, right now historical data is not part of the criteria. I have a phone number to Allan Johnson and I will be happy to provide it to any Commissioner, the public, anyone who wants it. You're more than welcome to call and get information. I don't want it to be said Alicia didn't want this. I'm at my wit's end; I've tried everything. I don't have anymore data, technical data that meets the criteria, so if someone does please come forward and we will gladly forward it."

Commissioner Eloy Giron asked what is the urgency of the Commission approving the new maps at this time. Chairman Aguilar said, "There is a thirty day comment period and the period expired Friday. I think it is important that this county know what the latest available data is."

Chairman Aguilar said, "I'll tell you what I will do, it is only two weeks away, I will call and see if we can't have a conference call before the next meeting with either Diane Calhoon or Allan Johnson. That way this Commission can participate in that and ask questions themselves, is that agreeable?" Commissioner Frank Pando said, "That's fine, but it still bothers me because we try to sit up here and help the public. You don't try to screw the public and that is exactly what these people are doing. They are making demands that are unnecessary, which I don't agree with."

Chairman Aguilar said, "Yes, Commissioner Pando, but for nine years I have been involved. I've given a lot of my time even in cost to where if we go back, the County wouldn't even pay for the original study. That wasn't even paid by the County. There was myself and other individuals that were very involved in this, but after nine years I agree with your philosophy, but the situation is such that we're stuck. If we keep going back to say you approved the ordinance, you had a ninety day appeal period, why didn't that Commission say something? As long as that ordinance was approved, it gets brought up and says you should have said something."

Involved in the discussion were Les Mabe, Leonard Garcia, Carlos Lopopolo and Ron Hibdon.

The County Attorney stated, "What we ought to do at a near future meeting is present those maps to the Commission and adopt them. We have exhausted our appeal rights." Chairman Aguilar said, "My concern is that those maps were presented to this Commission, the other Commission about a year and a half ago. The motion was 3 to 2 to not acknowledge them. I really don't know what we've been using, but they are the latest available data." Chairman Aguilar asked if it could be on the agenda for the next two weeks.

Commissioner Pando asked if they could get the updated maps. Richard Padilla said they would not be changing anything. The Maps of April 6, 1998 are the latest available data.

Tom Garde said, "Based on the representation I don't believe we have a choice, but to use the latest available data. We've lost our appeals. Unless we adopt these maps we are going to create more confusion for the general public. You can't switch maps on people and I suspect if we don't adopt these latest maps we will just create more problems for ourselves, and liability for the general public if in fact we're using the wrong map."

Commissioner Padilla said, "Madame Chair I think you've offered to call and get some more information real quick and we're going to have that conference and get those answers."

Chairman Aguilar said, "What I can propose is, and Richard can do this too if we want to direct him as our Flood Plain Administrator, he can call FEMA and say no, we're not appealing. The same maps that I have are they the same maps that are going to be published and if they say yes then he knows that these maps are the latest available data. I called FEMA a week ago to ask the same question and they mentioned to me whatever the last maps that we sent you are, there are no changes and that's what is going to publication. As our Flood Plain Administrator, I'd like Richard to do it."

Commissioner Giron said that within the next two weeks could administration find out any counties that have pulled out of FEMA, in Nevada or any other State. He wants something solid on that. He said he believes they will pull our money.

Richard Padilla said, "If you don't adopt these maps, I have to stop and you as a Commission have to put a moratorium in the flood plain areas. All construction must stop."

Chairman Aguilar said she is concerned about compliance. If someone buys a piece of property and they want to build and finance FHA in a flood plain area, it would not be allowed. She said, "They sign the contract to build a home and then they can't get financing and they say the county said that it wasn't in a flood plain area, but the map said it was. What do we do today?"

Tom Garde said, "Because the County was unable to even extend their appeal, it is incumbent on us to adopt the maps of April, 1998."

Chairman Aguilar said, "In adopting the data all we are saying is, from the ordinance, it is not a matter of saying yes or no, FEMA is saying we have some information for you that is considered the latest available data, if you dispute it then you better have some data to back it up. If you don't have it, you better use our data or we're going to come down hard on you. That is the truth of the matter. If we don't adopt then we better have something in place."

Commissioner Al Padilla made a motion to adopt the FEMA Maps of April 6, 1998 as the latest available data. Chairman Alicia Aguilar seconded the motion.

Discussion was held on the motion.

Commissioner Frank Pando said he didn't know what he was voting on, but he voted yes. Commissioner Eloy Giron said he didn't know what maps they were voting on.

Chairman Aguilar said, "I withdraw my second. If I have two Commissioners that are voting and saying they don't know what the dickens they're voting on then I don't think this motion can continue." Commissioner Al Padilla withdrew his motion. Chairman Aguilar said, "We have a second that has been withdrawn and a motion that has been withdrawn."

County Attorney Tom Garde stated, "At this point I think we need the two weeks to have Mr. Padilla submit the maps to the Commission, consult with FEMA so that the Commission will be aware of what they are voting on." Chairman Aguilar asked if they would be issuing building permits for two weeks. She said they were talking A and AE.

Richard Padilla said he would strongly suggest that the persons involved in the question, if they have any problems and they are located in the flood zone areas, all resources have been resolved and they have gone as far as they can, if they have any protests that they submit them to the National Flood Insurance Agency, not the Commission.

Chairman Aguilar said that is not the procedure; any information or facts have to be submitted to this Commission and they send it on to FEMA.

Commissioner Frank Pando said, "FEMA might say six inches or twelve inches, it doesn't matter, common sense has to prevail. I just finished a house in Tome and I only had to go twelve inches to satisfy FEMA, but it didn't satisfy my need so I think you have to use common sense. We still live in America, we're not dictated by two inches or one inch or six feet."

Chairman Alicia Aguilar said, "In providing an elevation we can't, common sense is not an option we have. We have to have available data. We have to be able to support it and I'm not disagreeing with your philosophy and I agree with you that is what it should be. If someone wants to build a house in the middle of an alfalfa field and there is a ditch by there, they should elevate, but most people don't unless we tell them and if they have a disaster that's when they are going to come back to us and say you should have told me."

Tom Garde said, "Back in June I believe the Commission voted not to adopt these maps. I think the Commission needs to have a vote on that. If the Commission decides two weeks is more appropriate that's fine, but I think until this Commission votes on these maps, time is of the essence to adopt these maps."

Commissioner Pando asked the County Attorney why the last Commission voted against the maps. The County Attorney said it was because of the appeal. The Commission made a decision to appeal FEMA's maps and based on that there was a decision not to adopt the maps.

Chairman Aguilar asked the Commission, "Is it possible to table this item to the end, we'll continue on with the items. I'd like to ask Mr. Padilla to get hold of FEMA and ask them what maps or what information is going to come on the final and come back to us within an hour or hour and a half and let us readress this."

Commissioner Frank Pando made a motion to move Item R (Executive Session) to Item S and move Item D (FEMA Update) to Item R. Commissioner Al Padilla seconded the motion. Motion carried.

Chairman Aguilar said, "The County Manager just mentioned to me that Mr. Padilla has to be at another meeting at 1 o' clock. If I could I would like to call Allan Johnson and ask our attorney and our County Manager to be present and one other Commissioner can be present, just to listen to what they tell us."

(E) HIGHLAND MEADOW ROADS CONCERNS

Annabelle Trevino spoke on behalf of Buddy Major. She said,"Mr. Major has concerns regarding road issues in Highland Meadow Estates. There are several roads that have been dedicated to Valencia County and the road issue comes up often. Lack of maintaining such as grading, we're requesting gravel. We haven't seen any gravel for about three years now and road signs have been an issue also. I personally can speak because I've met with John Cherry on several occasions to build a volunteer fire department out in Highland Meadows. It has been a slow process, but to my knowledge it is still continuing. We're still working on it together. The main thing here is the road issue, gravel, grading and road signs."

Commissioner Padilla asked Ms. Trevino if she had a list of the roads that are dedicated. She said she did. She said she had a meeting with Richard Chavez on May 4, 1999. He went out to the area and drove the area with her and Mr. Major. Commissioner Padilla asked if they were dedicated or just maintained. Ms. Trevino said they are dedicated. She then read the following list:

Unit 6	Highland Road	Fama Road
	Iowa Street	Gusto Road
	Jersey Street	Kent Street
	Lynn Avenue	James Avenue
	Indigo Road	Inca Road
Unit 5	Calle de Baca West	Akron Street
	Fruita Road	
Unit 3	George Avenue	
Unit 1	Denny Avenue	
Unit 2	Brent Avenue	Farkle Road
	Gravalan Road	Lucero Drive
	Ash Street	Cherry Street
	Fred Avenue	

Chairman Alicia Aguilar stated, "Mr. Fernandez maybe you can comment on this, it is my understanding that Richard Chavez did meet and came back with the information that there was no record that could be found that these streets had ever been accepted for dedication by the County." James Fernandez said, "That is correct." Chairman Aguilar said, "There is an area that is showing as Highland Meadows dedication that is 21 miles, but that isn't in Commissioner Baca's district where this subdivision is. They are listed under Commissioner Pando's district, which would be Cliff Hammond and those areas. It is also my understanding that we cannot have bulk grading, as far as Highland Meadows 21 miles. They have to be identified by road and the length of the road. I will mention that I did take a tour about nine or ten months ago and I made the previous County Manager aware of this. What I learned is that streets were being cut. They were not being maintained. There were some streets that the grader was just going in and opening streets and that is not the

maintenance that we're supposed to be doing. I think with the information that has been brought before us, we need to do a thorough investigation."

Commissioner Al Padilla said he also took a tour of Highland Meadows and took some pictures and there were some roads being opened by the County at that time. He said he went out there twice and took the news media and he also went into some of those roads. He said, "Louis Griego was driving the grader and he said he had orders to do that."

Chairman Aguilar said, "I do think we have issues throughout the County and Mr. Garcia just brought out in MeadowLake so I think we need to establish what roads are dedicated and what we do need to maintain them. These could have been courtesy grades for all I know. Counselor I think we need to look into this and if it is showing as a bulk, they need to be identified and see if they have been dedicated. It needs to be documented."

County Attorney Tom Garde said, "With regards to county roads, basically the county ordinance is very specific as far as what it would cost a road that should be dedicated. I think until we investigate which county roads have been accepted, you're going to have to put some sort of moratorium on what's going on because the information that we've received is there are areas out there that have been bladed by the County and the County had no business blading. Until we get a handle on what's going on out there and what roads have been dedicated to the County."

Commissioner Frank Pando said he was out there in January or February. It is his understanding that there is about 27 miles of roads there that supposedly are school bus routes. He said he doesn't know where most of the roads exist, but that they are separated by the railroad and one side of the tracks is his district and the other is Commissioner Baca's. He believes they need to get them brought up to where they are supposed to be. As far as the Fire Department, they are still working on it.

Chairman Aguilar said there is a procedure to follow for certification and if it needs to be changed from one district to another, they need to make sure that the roads have been dedicated. She said, "I did ask Mr. Fernandez and he asked Mr. Chavez and the map that you all are using, the roads were never dedicated. You are using Indian Hills Subdivision, but it is Highland Meadows Subdivision on the roads."

Mike McCartney said there has been no formal procedure for those roads to be dedicated to the County. It requires a public hearing and reports from road viewers. The misconception is that when a subdivision is approved, the roads are automatically accepted for dedication. The roads are accepted along with the subdivision, but not for dedication.

Frances Wood said there are unit errors in the entire subdivision. The Talavera Corp filed the subdivision in the early 70's. There are eight unit numbers in there and Unit 8 is the one that is North of Highway 6 and all of the other unit numbers are South of Highway 6. The Indian Hills area simply is not designated as a name. Ms. Wood owns a lot of property out there and hers is all Highland Meadows Estates, Indian Hills Division. That's Unit 4 and then the other one is Highland Meadows Estates Unit 7 and is Calle Sierra Ridge. Planning and Zoning have changed the original names of the roads on the original plat that was filed in the 70's recently.

Tom Garde said, "Basically funding is based on the bus routes, but that doesn't mean the roads are dedicated. We need to research to find out what is going on." Chairman Aguilar said she understood the County did take gravel out there and when she went out there the roads were nicely improved. She said, "In this investigation I would like to find out if these aren't county dedicated roads, who authorized the approval of county equipment to be taken onto private property and who authorized the county gravel to be taken to benefit private property."

Chairman Aguilar directed Administration to work with Planning and Zoning to bring back a report on this issue.

(F) TIERRA BONITA QUARTERLY REPORT

Robin Ver Eecke presented the Tierra Bonita Quarterly Report. She said the tremendous amount of activity among neighborhoods cleaning up trash has been amazing. It has been a lot of hard work for everyone involved. She thanked James Fernandez, Monica Mireles, Carlos Montoya, Commissioner Alicia Aguilar, Mike McCartney, Benjie Torrez, John Cherry, Louie Pena, the State Road Department, Waste management and the Village of Los Lunas. **(See Exhibit B)**

(G) APPROVAL OF POLICIES/PROCEDURES/Adult Detention Facility

Edwin Esquibel presented the Policies and Procedures for the Adult Detention Facility for Commission approval. He said he spent the first few months that he was here writing the Policies and Procedures. He came out with the first draft in February and presented a copy to each of the Commission, as well as the County Attorney and the Association of Counties. He said he received several comments on them and he wrote another draft in March. He said he received some requests for changes on the second draft and he redid it a third time and sent it back to the Association of Counties and they told him they thought it was excellent as it was. They recommended no additional changes.

County Attorney Tom Garde said, "Basically these policies and procedures are the direct result of Mr. Esquibel's hiring. I think what this will do is go a long way in getting the County away from any threat from the ACLU or any other agency with regards to the direction that the jail is taking. I think the Mission Statement is real clear as far as what the intention of the County is and this Commission and that is basically to run a clean facility. I think Mr. Esquibel made a very good start with regards to that endeavor. I recommend to this Commission that they accept the Policies and Procedures submitted by Mr. Esquibel. Everyone has reviewed this from the jail consultant to the Association of Counties and they have recommended acceptance of this policy."

Commissioner Eloy Giron made a motion to approve the Policies and Procedures for the Adult Detention Facility. Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit C)**

Commissioner Eloy Giron made a motion to convene as the Indigent Board. Commissioner Frank Pando seconded the motion. Motion carried.

(H) INDIGENT REPORT

Barbara Baker presented the Indigent Claims from April 22, 1999 to May 27, 1999. The total amount of claims submitted was \$159,986.97. She asked the Commission to approve \$99,846.57 and to deny \$60,140.40.

Commissioner Eloy Giron made a motion to approve the Indigent Report as presented. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit D)**

(I) AMENDMENT TO INDIGENT HOSPITAL CLAIMS RESOLUTION #98-27

Barbara Baker presented an amendment to the Valencia County Indigent Hospital Claims Program, Resolution 98-27 for public hearing and final consideration.

The maximum health care facility payment would be no more than \$40,000 for one indigent person in a 12-month period, as funds allow.

Mrs. Baker said on April 29, 1999 the Valencia County indigent Committee met and each member voted to increase the health care facility payment per indigent person from \$15,000 to \$40,000 per 12 month period as funds allow. The committee also agreed that in the event the amount needed to be decreased due to the Indigent Fund balance, the committee could vote on this without taking up the valuable time of the Commission.

Commissioner Frank Pando made a motion to allow the amendment to Indigent Hospital Claims Resolution #98-27. Commissioner Eloy Giron seconded the motion. Motion carried. **(See Exhibit E)**

Commissioner Frank Pando made a motion to re-convene as the Board of County Commission. Commissioner Eloy Giron seconded the motion. Motion carried.

Commissioner Frank Pando made a motion to move Item K (Request to vacate easement) to Item J(Preliminary Plat Approval/Sant Tana Estates Subdivision). He said Mr. Ortega has to leave.

(K) REQUEST TO VACATE EASEMENT

Mike McCartney said this is a request to vacate an easement in Rancho Rio Grande. It is located on the West Mesa from Belen. It is between Lots 145 and 142.

Commissioner Helen Baca made a motion to vacate the easement for Ernest Ortega. Commissioner Eloy Giron seconded the motion. Motion carried.

Chairman Alicia Aguilar and County Manager James Fernandez are on a conference call with FEMA and are not present in the meeting at this time.

(J) PRELIMINARY PLAT APPROVAL/SANT TANA ESTATES SUBDIVISION

Matthew Otero said there are a lot of questions that need to be directed to Chairman Aguilar and since she is on the phone with FEMA, he requested that this item be continued until she returns to the meeting.

Commissioner Frank Pando made a motion to hear Item L, Item M and Item N and then come back to Item J. Commissioner Eloy Giron seconded the motion. Motion carried.

Mike McCartney said this is a request for preliminary plat approval for Sant Tana Estates Subdivision. The subdivision is located off of Valencia Road approximately one and two tenths of a mile East of Highway 47. The proposed subdivision will divide the property into 17 1.0-acre lots. Mr. McCartney said, "There is an interoffice Memorandum that I just gave you now from Mr. Steven Chavez, the County Planner, give yourselves a chance to read it. Ron has had a chance to read it. Mr. Chavez was unable to stay, he had to go to the doctor on an emergency." **(See Exhibit F)**

The responses from all State Agencies are in the packet booklet on the subdivision. This item received a favorable recommendation from the Planning & Zoning Commission on April 12th.

The tapes of the meeting are on file in the County Clerk's Office.

Discussion was held on the Sant Tana Subdivision.

Steven Chavez recommended approval with conditions.

County Attorney Tom Garde said, "Matthew, I have the same problem I had with the covenants on your other subdivision. Basically the only ones that can enforce the covenants are you and your wife." Matthew said the County Attorney was reading the covenants wrong. Tom Garde said, "If they build a house on their property based on your covenants, then next year you decide you don't like your covenants, you have the right because you own more than 75% of the property to change the covenants. Basically you have a person with covenants and then you pull the covenants out from under them." Matthew said they are getting preliminary plat approval so whatever recommendations the Commission has to enforce the covenants can be changed before final approval. The County Attorney said he would like to see that everyone who buys property would have the right to enforce the covenants. He said, "Basically, they would be submitting to us a review of covenants and we would comment on that prior to final approval." Mr. Otero said they would change them to the best interest of the property owners.

Chairman Alicia Aguilar said, "Item 31, we just finished talking about FEMA and that needs to be changed. You're saying that following the map of May 7, 1993 in flood zone A. Now we have the information so that you can get it from our FloodPlain Administrator. I believe we'll be using the April, 1998 Preliminary Maps."

Ron Hibdon asked if they could word that to "whatever FEMA Map is being used at the time they obtain a building permit." Chairman Aguilar said, "The reason I was gone is because I was talking to Allan Johnson and he did confirm that these are the maps that are going to be the final maps." Mr. Hibdon said the FEMA Maps could change in four or five months and he would like to change it whatever maps they are using at the time. Chairman Aguilar said, "That is fine, but also identify, these are going to be stick built homes."

Mrs. Aguilar said, "One other item and that would be road maintenance and I did this once before. It says, "Road Maintenance will be provided by the developer until such time as the County is petitioned and the roads meet county standards and are accepted by the County Commissioners in a public meeting". Matthew Otero said, "That's fine, just for the record there is a subdivision called Matthew Otero Estates, I don't own a single property in it and I have access to all the equipment and I still continue to go down there and maintain the roads. " Chairman Aguilar said it should also be explained that road maintenance is not the responsibility of the County and the roads are being privately maintained.

Ron Hibdon said there are a lot of things being said and it is hard for them to remember when they get back to the office so he has his secretary recording the meeting so that they can get the actual wording. He said, "Paula has probably got the best recorder in here and if we can get access to those as agents for a developer if we can get copies of those tapes when a particular item needs to be addressed, we can get the proper wording."

Chairman Aguilar said, "Because of what has happened in the past, these are our only set of tapes, so they won't be duplicated until there is approval of the Minutes because of the danger of damage to the tapes. You are welcome to get a copy of the transcript after the Commission approves the Minutes. If they get damaged or something happens to the tapes we don't have a record prior to the Commission approving. If you will provide the County Manager with a letter of your request."

Kandy Cordova said, "If you want to come into the office, once Paula is finished with them and listen to them and have your secretary jot the motion, I don't have a problem with that."

Commissioner Frank Pando said he noticed that they were going to have stick built homes and no where in the proposal does it say "no mobile homes". He said there have been Court Cases and if it is not in black and white, you cannot discriminate. Matthew Otero said they could put in that it must be a stick built home onsite and that no modular home or manufactured home be brought onto site. Chairman Aguilar said she would like to refer that to the County Attorney. She said she did not believe the Commission should get into "no mobile homes allowed."

Tom Garde said, "Basically the laws is to be effective that a private entity can set up whatever restrictions they deem appropriate, but those restrictions have to be nondiscriminatory. You have to be specific as to what you intend to do there." Matthew Otero said, "We can put a 15 page paragraph on how to build a home with a cement slab, make sure a truck drops off all the lumber and frames are put on. It doesn't matter; I understand your concern. My concern is that I have a contract with the owner that it will be stick built homes. In an effect we will get together with you as well as my attorney so that it doesn't discriminate." Chairman Aguilar said, "I think if it is voluntary and you say no manufactured and no mobile homes, if it identifies it, I think it's fine, but I think it should be something that you place it on there and then when it comes back for review to us on final, we'll clean up the language."

Discussion was held on soil conservation issues regarding the property. Chairman Aguilar said they could request a construction schedule.

One of the neighbors requested that a five-foot fence be put up around the subdivision because they have a terrible problem with dogs in that area.

Those making statements regarding the subdivision were Jerry Cosper, Debbie Young, Eileen Cosper and Debbie Dunn.

Commissioner Eloy Giron stated, "Matthew you and I took a ride this morning. We've been at this issue for two years now. You know what I'd like to see over there. I don't even know the name of the subdivision I took you to this morning. It had all of the pipe fencing completed before the house is complete. It had underground ditches. It had two-acre splits. It had base course on the road. It had a bar-ditch. Ron you were there also. That's what I would like to see, but what I would like to see and probably what we'll get is something different. Your dad addressed us about a month and a half ago about being greedy. It would be greedy for me to go ahead and pose two acres on you right now and I wouldn't want to do that, but I'm also asking you not to be greedy with these neighbors that you are going to be building next to."

"Matthew, this subdivision you build has to be a beautiful one. These people are counting on you to build something like that. I have all the faith in you that you will, but you and I know that I cannot support the split you have right now. Is there anyway that you can make it a different recommendation?" Matthew Otero stated, "I'm a developer. I'm in it for the money. It's my business. In purchasing the property the way that I did, with the owner as well, it was under a contract that was for 17 lots. My intent with him was to build 17 lots and in doing that before we purchased the contract from him, we made sure that we followed all subdivision guidelines and regulations. I think we're doing it to the fullest extent. There was a great deal of controversy happened with Lobo Valley Acres, unfortunately both parties lost on that situation. I feel the Tome Association lost, I feel I lost, but this subdivision, I'm sorry I have to develop it in the way we presented it to the Commission today. I have to. I'm not going to hide the fact that if I don't get preliminary plat approval in the way that is in the subdivision guidelines, I have to seek legal advise on what my responsibility will be in having an interpretation of the Valencia County Subdivision Guidelines and how we have followed them and met all of their responses. I ask that I get favorable response and favorable vote to go for this subdivision

the way I presented it to you, the Commission today. We'll talk about all of the stuff in the newspaper. We'll talk about the enforcement of the covenants, we have time to do that before final plat approval and I have no problem with that."

Commissioner Eloy Giron said, "At this time I would like to make a motion that, Mike can you give me our options?" Mike McCartney said, "You can either approve, deny or approve with conditions." Commissioner Giron said, "My motion right now would be to approve with conditions. First of all, the conditions that were mentioned earlier on the covenants, we cleaned up the language regarding the issue Mr. Garde brought up on the 75% of the majority or 75% of that where you go back to subdivision. We also have a 125% performance bond issued on this. We would also have the fences completed 90 days after closing and it would be a five-foot pipe fence and the wire would be aesthetically matching the neighbor's right there, a disclosure statement on the roads and a disclosure statement on the bridge. Also Alicia's recommendation on Waste Management being identified and the condition also being set that to have a gross one acre. I would like to have it at one and a half acres net. That's in the form of a motion."

Chairman Aguilar said, "Is there a second to Commissioner Giron's motion to net an acre and a half with the conditions he's stated and clarification of the disclosure statement?" Commissioner Frank Pando seconded the motion.

Commissioner Giron said, "Matthew under discussion, what is the difference in this plat and the one you brought two years ago, the one that was addressed in Court?" Matthew Otero said, "The one that I brought two years ago is basically the same plat except that when we were doing regulations at that time it was one and a half acres. Today it's one acre. In doing this I presented it under the new regulations. I must admit and I'll tell you now, I will agree on all of the ones that you have proposed except for the one-acre net. The way we presented the plat today is how I would like to have it approved."

Commissioner Giron said, "There is a big difference between this issue and the one in Lobo Valley Acres. These people want to work with you right now. They've come very professional, very respectful to work with you and make sure all of us in that neighborhood get a hell of a good subdivision. We have the confidence that you can do it. That's what they are asking for. Your father is the one that looked us in the eye and told us not to be greedy." Matthew said, "I agree and I'm working with you on the fencing. I'm working with you on everything else. Unfortunately the biggest part of my money that you are allowing me not to gain from is with the lot size. Again, I agree it's a total different story, but I will not accept the one-acre net requirement. If it comes to that in the form of a vote, I'm not going to hide it from you Commissioner's, I will appeal it and I will try to get a decision from Court in what these regulations, that are quite confusing about between yourself and me in trying to resolve this situation."

Commissioner Frank Pando said, "You are my friend and I don't have a quarrel with that whatsoever, but I don't like to be threatened by you or anybody. If you are going to take us to Court, please do so. I welcome it." Matthew said, "I did not intend for you to take it as a threat. That is what my intent is." Commissioner Pando said that is one of the reasons he seconded the motion. He said, "Another reason is, you're wrong, when the old ordinance was around, there was an acre all over the place. One acre net was approved. There was a bunch of subdivisions in Valencia County that were approved under one acre net, but the developer would come in here for a variance. We're considering an acre and a half in the greenbelt. You have not asked for a variance on any of these lot sizes. In every subdivision that I've been involved in, you have to apply for a variance. It has not been done. I don't like to live under threats and I welcome the challenge to go to Court." Matthew said, "You're right we are good friends. I apologize if you took it as a threat. I just want you to know that I will seek legal advice in finding out what these covenants really call for and we can ask for a variance because our interpretation of the rules and regulations doesn't ask for a variance. We have looked at other subdivisions that were approved in Valencia County in the past and we are trying to involve only what was done and I'm trying to get treated in the same way."

Chairman Aguilar asked the property owners in the area, "When you bought your property there, let's say in the last 10 or 15 years that you have been there, are the majority of the properties, based on what Planning and Zoning years ago, did you think it was going to be an acre and a half minimum?" They said they were under the impression they would be an acre and a half to three acre lots in the whole Valencia Road area.

Commissioner Pando said the last subdivision that was approved in that area was Vista Linda and that was two-acre lots. Those lots sold very quickly. He said, "That's directly across from this. I was on the Planning and Zoning when this came before us and I tried to back Matthew with an acre at that time due to the fact, at that particular time we had recommended all acres and an acre and a half. The County Commission reversed our decision and I've never appreciated that. That's why we made no recommendation on this 17 acres at that time."

Ron Hibdon said he has done numerous surveys in that area and they have created a lot of parcels that are less than one acre net. He said he sympathizes with the people and they should come to the Commission and ask that the new regulations in the Rio Grande Valley have a one acre net or an acre and a half net, but how can they force something on them when they meet the current regulations. Commissioner Pando said those are for two or three lots and not 17 lots.

Chairman Aguilar called for the vote. She said, "Commissioner Giron has moved to one and a half acre lots with the conditions identified. Commissioner Pando has seconded the motion. It will be one and a half acre net, 125% performance bond, we want clarification on the enforcement of the restrictive covenants, we want clarification on the dedication of roads that they are not county maintained, the other issues on the covenants are to be approved at final plat, 1600 square foot minimum stick built, no manufactured homes, no mobile homes, the fences are to be five foot and they are to be completed within 90 days after closing and you discussed some horse fence wire. The fencing is to be aesthetically compatible with the adjoining property owners and on the disclosure statement also, it is Waste Management and not Sisson. You are to address the Middle Rio Grande Conservancy District Crossing and who is responsible for the maintenance of it." John Cherry said

his office did review these plans and he wrote a letter of concern regarding the bridge over the acequia and it was returned saying they were going to put culverts in.

Commissioner Pando voted yes. Commissioner Giron voted yes. Commissioner Padilla said, "I don't see much difference in this feature and Lobo Estates and for that reason I'm going to vote no." Commissioner Helen Baca said, "The rules and regulations require one acre net minimum so I have to vote no." Chairman Aguilar said, "We have a tie, two yes and two no. Based on the information that Mr. Otero has provided us that it is either 3/4 acre or not, then we go into litigation, I think also I'd like to make a statement that there is a difference here in that the Commissioner in that district has stepped forth up to the plate and said yes, this is what I'm going to do, approve with conditions and I'm one that if we do follow the regulations which we do at this point, I don't see the regulations stating that it is one acre net or so. I think there are other issues as far as soils and septs that give this Commission discretion to make recommendations that protect the County, therefore I will support Commissioner Giron's motion. Motion carries."

Matthew Otero asked, "Am I correct in saying you passed it with one and a half acres?" Chairman Aguilar said "yes." Mr. Otero said, thank you very much, that's very appreciated.

(L) PUBLIC HEARING /FINAL APPROVAL/LOT SPLIT FEES

Mike McCartney said this is the second and final hearing to increase lot split fees for summary review from \$200.00 for 2 to 5 lots to \$200.00 per lot. Summary Review is an administrative procedure that requires three signatures, his, James Fernandez and a Commissioner. In Socorro County anything over two lots is treated as a full subdivision. It goes through State Agency review and public hearing. It costs approximately \$20,000.00 compared to a 4 lot split here and a cost of \$800.00. He said they have caught many people circumventing the regulations. The time it takes to do all of the research to catch the people is one reason for the increase of the fees.

Ron Hibdon asked Mike McCartney what kind of percentage increase will he have this year over last year. Mike McCartney said as far as the number of lot splits submitted, in the last three weeks it has gone up 100%. For the remaining portion of the year he expects it to be 20%. Mr. Hibdon also asked how many employees Mr. McCartney would need to take care of the 20% increase. Mike McCartney said he would need at least one other employee. There was already a proposal to hire another zoning officer. He said his concern that he would like Mr. Hibdon to be aware of is the cost compared to doing a four lot split under Valencia County's Guidelines with this fee increase as compared to Socorro County where you do a three lot split, you go before three public hearings and you go before State Agency Review. He believes increase is very minimal instead of going through the entire subdivision regulations.

Mr. Hibdon and Matthew Otero spoke against the fee increase for lot splits.

Commissioner Frank Pando made a motion to approve the increase on lot split fees for summary review from \$200.00 for 2 to 5 lots to \$200.00 per lot. Commissioner Al Padilla seconded the motion.

Ron Hibdon asked the County Attorney for his opinion on whether this increase is legal or not. Tom Garde said, "Yes, it has been published. The public has a right to comment. There has been comment at two meetings therefore it is appropriate."

Motion carried. **(See Exhibit G)**

(M) CENSUS REPORT

County Clerk Kandy Cordova reported in the Spring of 1998, a representative from Research & Polling, Inc., met with the Director of Elections, Lawrence Kaneshiro to work on the Block Boundary Suggestion Project. Several Block Boundaries were suggested and noted with the representative.

In the next three months, the County Clerk will evaluate precinct locations and boundaries for the 2000 Election Cycle. As Research & Polling suggested in their letter dated May 12, 1999, they will take a closer look at precinct boundaries that may need to be split or combined so that they are in place by 2001. The resolution setting precincts for the 2000 elections will be brought before the Commission in October 1999, as per statute.

(N) SIGNING OF RESOLUTION NO. 99-26/Declaring Emergency

Monica Mireles said the Commission met in Emergency Session on May 25, 1999 to declare portions of Valencia County in a State of Emergency. The resolution needed to be forwarded to Santa Fe and they requested that the resolution be placed on letterhead stationary. This is the same resolution that was signed that day. It was just retyped onto letterhead stationary and the Commission needs to resign it. **(See Exhibit H)**

(O) COUNTY MANAGER'S REPORT

The County Manager reported on the following items:

- The Disaster Assistance Program requires that the County designate an applicant agent. Mr. Fernandez presented a resolution to be approved whereby there will be one contact person to deal with the paperwork and gathering information. The agency application indicates that Mr. Fernandez will be that contact person.

Commissioner Al Padilla made a motion to approve the Applicant Agent Resolution. Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit I)**

- Wayne Gallegos, John Cherry, Mr. Reeves and an individual from the Small Business Administration came out today to start their analysis as to whether or not there will be structural damage to uninsured homes within Valencia County and to designate individuals within Valencia County as applicable applications for Small Business Administration Loans, low interest loans or the rebuilding of homes. The minimum requirement is that there be 25 homes with at least 40% damage to them. That process started today and it will be a two to three day process. He said according to the Red Cross there are 14 homes that were destroyed totally and 19 with major damage.

- Notice of intent to adopt an amendment to Ordinance 1-93, relating to Collective Bargaining for Valencia County; providing rights, responsibilities and procedures in the employment relationship between the employees and the employer.
- Chairman Alicia Aguilar said, "I have a question for the County Attorney, seeing as litigation has been filed on the State level how does that affect us?"
- The County Attorney said, "The only thing I'm aware of with regards to the state level is that it is a suit against the Governor for taking no action on the sunset. Until such time as a Court rules on that, we have to assume it has sunset. Only the Supreme Court can undo it."
- This would be on the July 6th meeting for final action. The County Attorney said, "In reviewing the Labor Management Act, as far as the State is concerned, there is no restriction based with it. Technically we would still be having the Collective Bargaining Act in existence, as there has been no action with regards to the ordinance to end arbitration if it goes past the July date. Secondly the Ordinance will not go into affect until 30 days after approval. We're looking at August 7th. The Governor took no action, the Legislature voted to continue the Collective Bargaining Act and the Governor took no action and it sunsets July 1, 1999. The legislation was enacted in 1993 for a six year period and the six year period begins July 1st."

Commissioner Frank Pando made a motion to allow the publication of the Notice of intent to adopt an amendment to Ordinance #1-93. Commissioner Al Padilla seconded the motion. Motion carried. **(See Exhibit J)**

- Presented a list of names of all Valencia County Boards. The only Board they are missing is the Hospital Committee. Chairman Aguilar requested the Commission look over the list and if they need to reappoint, notice can be given and they can either be reappointed or new appointments can be made. **(See Exhibit K)**
- Have been notified by John Cherry the Valencia County Fire Marshal the need for a fireworks ban due to the dry conditions. John Cherry presented a letter from the Forestry Dept. requesting a ban on open burning in several county's including Valencia County. He said they were enforcing that now. Mr. Cherry said his concern is the 4th of July. If fireworks are to be banned it has to be done 20 days before the 4th of July. He said it may not be needed, but there will not be another meeting in time for it to be enforced. He is requesting for permission for his office to make the determination whether a fireworks ban is needed or not. **(See Exhibit L)**

Commissioner Frank Pando made a motion to allow the Fire Marshal to make the determination of whether or not a ban on fireworks was needed. Commissioner Helen Baca seconded the motion. Motion carried.

- An update on the project that the County is pursuing the construction of the adult detention facility and office sites. The project is progressing and a hearing will be held on June 16th with the Village of Los Lunas Planning and Zoning Commission. On June 17th, the building inspection on the two properties will be conducted.
- Chairman Alicia Aguilar stated, "In going before Los Lunas as far as a zone change, it is my understanding that we really don't need their permission. Would it expedite it and also relieve any possibilities of conditions that the P & Z Board may not know in Los Lunas, if we direct our attorney to send them a letter or talk to the Village Attorney that we are going through this more as a courtesy to make them aware of what we are doing, but we really don't need their permission?" The County Manager said he believed that would be advisable.
- Tom Garde said, "I have researched this quite some time ago and it is very clear that we don't have to go to the Village, it's basically a courtesy to make a presentation."
- Received a notice from Fidelity Title Company, a commitment notice to purchaser that the Chairman needs to sign off on. Chairman Aguilar said she would like to wait for the additional conditions for title insurance whereby occupancy of the property owner's survey, any mechanics liens etc. There is one property that is occupied on a month to month basis. She would like to make sure that they have the survey and that everything is done prior to approval.
- The Commission requested that the County Manager meet with Frances Wood from Highland Meadows and it has been set up for the 16th at 10:00 AM.

Chairman Aguilar said Commissioner Giron asked her to mention that Christian Garcia, the member from the Planning and Zoning Commission has resigned and will not be serving on the P & Z Commission and he would like to appoint Bill Holliday as his choice for the appointment to the P & Z Commission.

Commissioner Frank Pando made a motion to accept Commissioner Giron's recommendation to appoint Bill Holliday. Commissioner Helen Baca seconded the motion. Motion carried.

Commissioner Pando recommended that a letter be sent to Christian Garcia.

Chairman Aguilar said the County Planner has been having meetings with the P & Z Commission before the meetings and there is one member that has not been attending. She said those meetings are mandatory. She wanted to let the Commissioners know that if their appointees are not attending the meetings that they may need to make new appointments.

(P) RESOLUTIONS/Permanent Cash Transfers/Inter/Intra Increases

Carlos Montoya presented three resolutions (99-28 - 99-29 - 99-30) for Commission approval. They are to clear up deficits in the Sheriff's Dept. and the jail. One of the resolutions is to help the Senior Citizens Olympics. The last one is a permanent cash transfer.

County Clerk Kandy Cordova said she noticed they were taking funds from the Bureau of Elections. She said she believed she had an outstanding Purchase Order, if she doesn't, then there is no problem, but if she does she will have a shortfall in that particular fund and will need the money replaced. Carlos Montoya said he would check into it, he believed there were no outstanding purchase orders.

Commissioner Frank Pando made a motion to approve Resolution 99-28, 99-29 and 99-30. Commissioner Helen Baca seconded the motion.

Chairman Aguilar, Commissioner Giron and County Manager James Fernandez returned to the meeting.

Motion carried with Commissioner Pando, Commissioner Padilla and Commissioner Baca voting yes. Commissioner Giron abstained; he was not in the meeting for the presentation. The Chairman did not vote. **(See Exhibit M)**

(Q) WARRANTS

Carlos Montoya presented the Warrants for the last two weeks. He said they are trying to wrap up the end of the fiscal year.

Commissioner Al Padilla made a motion to approve the warrants. The amount for the warrants is \$231,770.00. Commissioner Helen Baca seconded the motion. Motion carried.

(R) FEMA UPDATE

Chairman Aguilar said, "This item was tabled allowing us the opportunity to contact Allan Johnson, the Mitigation Engineer at the Federal Emergency Management Assistance in Washington D.C. I did call him and present was Mr. Fernandez and we did ask him the question that Commissioner Giron had as far as what are the consequences if we choose to pull out of the program. I can report or you can report."

James Fernandez said, "Basically what we were informed of is that any monies that would be allocated for loans would basically dry up and not be available to any individuals. Any programs that had any Federal monies would become unavailable. Monies that are insured through the FDIC even though they are not tied to the Federal Government, since they are insured would be unavailable. Any disaster assistance, not only in terms of flood, but tornado, snow, wind, any type of disaster that could take place in Valencia would not be covered."

Chairman Aguilar said, "He did mention that the 30-day comment period that we should be using the April, 1998 maps and on the A zone, the County should have some information available, latest available data as to the elevations. The two-foot arbitrary figure across the board does not apply. They do not accept that. He did stress that the County should be compiling with the April, 1998 maps as far as those elevations and those areas in an A zone. We better have some information available that substantiates our elevation. For us to say we've got this and it was 6 inches we better know what this is and we better know why we did it. Two other items that he did mention and that was when it comes to mobile homes, it is not only permanent foundations per FEMA specifications, but they must be tied down because of the danger to winds and storms. He did mention that if we had not been in compliance that we better do it because they will be doing a canvass."

Commissioner Al Padilla made a motion to accept the FEMA Maps of April 6, 1998 and direct the FloodPlain Administrator to come up with some latest available data for Zone A areas. Commissioner Helen Baca seconded the motion. Motion carried.

Chairman Aguilar said, "I would like to see the FEMA Elevation Certificate be used as the standard for all property permits because if you look at the back of that it actually gives you the diagrams for stick built construction. It gives you diagrams if it's a mobile home, if it's in an AE and that sort of thing. I think it provides further disclosure and it protects the County and the property owner or surveyor who has to identify the base flood elevation and they also have to come back and confirm the ground floor is where it is supposed to be."

Chairman Alicia Aguilar presented a petition from the people of El Cerro Mission requesting their own fire department become their own independent fire district due to the rapid growth in the community. **(See Exhibit N)**

(S) EXECUTIVE SESSION

Chairman Aguilar said, "I need a motion to go into Executive Session to discuss a Road Dept. employee issue and personnel."

Commissioner Frank Pando made a motion to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

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

James Fernandez stated during the Executive Session discussion was held on a job description change for Helen Cole and a Sheriff's Office employee who will serve as security officer for the MeadowLake Senior Citizens Center.

Commissioner Helen Baca made a motion to accept the recommendation of James Fernandez. Commissioner Frank Pando seconded the motion. Motion carried.

Chairman Aguilar said there is a meeting on Monday, June 14, 1999 at 10:00 AM on Solid Waste.

NEXT MEETING

The next Regular Meeting of the Valencia County Board of County Commission will be held on June 21, 1999, at 4:30 PM in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Frank Pando made a motion to adjourn the June 7, 1999, Regular Meeting of the Valencia County Board of County Commissioners. Commissioner Al Padilla seconded the motion. Motion carried.

<p>NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the January 21, 1999, Special Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.</p>
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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: July 6, 1999

For an official copy of these minutes and attachments see Commission Book 34 Page 605