

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

**REGULAR MEETING**

**JULY 6, 1999**

**MINUTES**

The Regular Meeting of July 6, 1999 was called to order by Chairperson Alicia Aguilar at 8:45 AM.

**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**

Human Resources Director Carol Anaya read the agenda for the Executive Session. Commissioner Frank Pando asked if the Commissioners were allowed to discuss the solid waste under pending litigation. Attorney Tom Garde stated, "I think we can discuss it under contract negotiations and then report back to the Commission in regards to the negotiations that were held. We will have to go with Solid Waste and it can be discussed at that point." Chairman Aguilar stated that they would be adding item D "Contract Negotiations, Solid Waste." Chairman Aguilar said, "Under Personnel, may we have Edwin Esquibel come to Executive Session."

Commissioner Al Padilla made a motion to approve the agenda with the changes for the Executive Session and go into Executive Session. Commissioner Frank Pando seconded the motion. Motion carried

Commissioner Pando made a motion to return from Executive Session. Commissioner Eloy Giron seconded the motion. Motion carried

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

<b>Seasonal Hire:</b>	Milton Sanchez
<b>Resignation:</b>	Michael Nunnelley
<b>Return from Maternity Leave:</b>	Mary Ann Maldonado

Commissioner Frank Pando made a motion to ratify action taken during the Executive Session. Commissioner Al Padilla seconded the motion. Motion carried.

Chairman Alicia Aguilar stated, "Our Attorney is not here, he had to leave, but under Pending Litigation, he informed us that on July 12<sup>th</sup>, there will be a hearing on Equity regarding Sun Communities. We also discussed the Solid Waste Ordinance that is proposed today for an amendment, that was under Pending Litigation. There was an article in the News-Bulletin this past Saturday and the Commission would like to clarify some of the facts that were printed as being facts, which, in fact, they were not. Mr. Esquibel was quoted that we were going to have a 400-bed adult detention facility, which is incorrect. It is a 96-bed facility. That is what the election and the Gross Receipts Tax will fund, am I correct? In the public there is a misconception that we are building a 400-bed facility. I would ask that the News Bulletin retract that statement because it is incorrect. Mr. Esquibel is here and he informed the Commission that he never made that statement to the News Bulletin."

Edwin Esquibel stated, "That is correct, Ma'am. I had a phone call and the first statement was that we currently had a 136-bed facility. I said, "Excuse me, no we don't, we have a 33-bed facility. We are in the process of adding, and the number has been said to be 100, but in fact it is 96 beds that are going to be built."

Chairmen Aguilar stated, "The population that we have is not only Valencia County, we also take in the population from Belen, Los Lunas, Bosque Farms, and Isleta. If Mr. Esquibel could give us a breakdown of that number, the public would know that the prisoners that we have, the so-called population, inmates, it is not Valencia County only. We're servicing the other municipalities." Edwin Esquibel gave a break down on the number of people being held. 38 are being detained from the Valencia County Sheriff's Office, 13 from the Los Lunas Police Department, 1 from the Bosque Farms Police Department, 6 from the New Mexico State Police, 8 from the Isleta Police Department, and a total of 24 detainees on hold for Magistrate Court or District Court. There is a total of 90.

Chairman Aguilar stated that there needs to be some clarification on the design of the facility, for the residents that live on the East Side of John John Rd. She said, "The facility is not going to go

to John John Rd. The access is not going to be from John John Rd." Edwin Esquibel said, "Currently all of the detainees are brought in through the access behind the Courthouse. Even in the new facility that will still be the access into the facility." Chairman Aguilar said, "The concern of the residents saying that the facility is going to go up to John John Rd. is not so. There is going to be parking there, there is a buffer between the facility and the residents. There was an issue that came up about the purchase of the property. The property was purchased from Herman Tabet. I would like for it to be made a part of the record that Mr. Tabet did not come to Valencia County to sell the property. We went to him. Mr. Tabet did have a proposal to use the property for something else that would have been more beneficial to him, economically and financially. Just because he is Chairman of Planning and Zoning, there is no conflict of interest. He just happened to own the only piece of property that was available to us. I can't disclose the amount that was paid for the property. We'll be able to do that as soon as we close on it, but it is reasonable." She said the purchase of both properties, the one from Charles Headon with the two buildings, and what is being purchased from Mr. Tabet, is less than what this county paid five years ago for the building across the street on two acres.

Herman Tabet said, "I want to tell the News Bulletin, I was born here in Valencia County, and have lived here for 64 years. I have 6 telephone numbers where I can be reached if you want to find out something about a conflict of interest. In the paper you put down that I was Chairman of Los Lunas Planning and Zoning. I have been a member of Planning and Zoning for 20 years for the County, and I take issue with you not checking that out. I have been very successful in business, and I have read it three or four times and I want you to print this. Everytime they come up with this thing for the last ten years, they always come up with the word "conflict of interest." If you don't know what conflict of interest is, you can come down to my office and I will have my attorney sit and tell you what conflict of interest is. Everytime my name is mentioned you come up with conflict of interest. I called Alicia last night and I told her that I would withdraw my offer that they brought to me to purchase the land. I will withdraw it. I don't need the money. My mother owns half the property, she definitely doesn't need the money. You don't attend the Planning and Zoning meeting and your very loose about everytime you print my name it is either conflict of interest or something else. I don't think it is a conflict of interest, if you want it fine, if you don't, fine. I stood here before you people and said you need to make the right decision. I told you that you could buy Apodacas across the street, you can buy someplace else, you don't need to buy mine. You make the right decision. Just because I own property there I am not going to hide from you. I own property all over the county. I gave you that ultimatum over a year and a half ago. If you want the property, fine, buy it, if you don't want it, leave me alone. I don't want my name muddied up and that goes to the News Bulletin."

Chairman Aguilar said, "Mr. Tabet my apologies for what you are going through. You didn't come to Valencia County to sell the property. There were other choices, we went to you and we asked you, if you would consider selling to the county. The other issue and I'll bring it up now is that people think that I made a commission off the sale of Herman Tabet. The News Bulletin person is shaking here head. Someone called them and said that too." Herman Tabet said, "Let me tell you, Commissioner, my mother is 86 years old and if the Valencia County News Bulletin wants to find out who is selling the property, let them call her up, she is not going to tell a lie. I might be capable of telling a lie but she is not. That property belongs half to her, from my dad's estate. I was also upset that they were going to put a 400-bed facility. They call it a prison. The county is not looking to build a prison; the county is looking to build a jail to hold prisoners. If I were sitting on the Commission, I would tell Los Lunas to build their own jail. If they don't want a jail here to accommodate their criminal's, let them build their own jail and let them house their own prisoners. I don't think that they should come out and say don't buy the land because it belongs to Herman Tabet."

Chairman Aguilar said, "I am not getting a commission. I do have a Real Estate license that is what I do as a living. As a Commissioner, whatever my experience and my talents are as a realtor come to this county to serve the citizens of this county at no cost. By statute, we are mandated to build an adult detention facility. The other item is that by statue on county property, we are on our own, and we do not need to go to anyone to ask for permission. When we went to Los Lunas it was as a courtesy. This misconception, this idea of us building a jail has people railed up to where it can jeopardize what we should be doing and what we've been trying to do for 20 years. It is unfortunate that a misconception that has been printed with facts that are not accurate."

Commissioner Al Padilla stated that he is supporting the statement that Mr. Tabet made. Commissioner Aguilar and himself made contact with Mr. Tabet about this property and he was reluctant to agree to any kind of sale. He told us that he would think about it. We just don't have another option. The State seems to be very reluctant on other pieces of property. This is an issue that we have to address whether we like it or not.

## **INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF**

Chairman Alicia Aguilar introduced County Manager James Fernandez, Business Manager Carlos Montoya, Human Resources Director Carol Anaya, Commissioner Frank Pando, Commissioner Eloy Giron, Vice Chairman Al Padilla, Commissioner Helen Baca, County Clerk Kandy Cordova, Sheryl Salas, Sheriff Juan Julian, Planning and Zoning Administrator Mike McCartney, County Planner Steven Chavez, from Soil Conservation, Marcel Reynolds, Mr. Jones, Lisa Miller, Chairman for Valencia County Planning & Zoning Herman Tabet, Jail Administrator Edwin Esquibel, Belen City Council Member and Director of MRGCD Richard Jaramillo.

## **PLEDGE OF ALLEGIANCE**

Herman Tabet led the Pledge of Allegiance

## **APPROVAL OF AGENDA**

County Clerk Kandy Cordova read the agenda as presented. Mike McCartney asked to delete item J (Vacation of Easements/Easement for Gail Reese, Agent AM Surveying Mike Shook), at the request of the applicant through mediation, they have come to a compromise to do something else, so that won't come before you again. Commissioner Eloy Giron asked to move Item G (Public Hearing/Final Approval Repeal Valencia County Collective Bargaining Ordinance) before Item A. James Fernandez said it would be presented by Dina Holcomb of Management Associates instead of Carol Anaya. James Fernandez asked to delete Item H (Presentation on Focus 2050 Regional Plan), Dennis Foltz asked that it be scheduled for a meeting in August. He said Item I (Approval of MCH Council Roster) would also need to be rescheduled.

Commissioner Frank Pando made a motion to approve the agenda as amended. Commissioner Eloy Giron seconded the motion. Motion carried.

## **APPROVAL OF MINUTES**

The Minutes of June 2, 1999 were presented for Commission approval. Commissioner Eloy Giron made a motion to approve the Minutes of June 2, 1999. Commissioner Padilla seconded the motion. Motion carried.

The Minutes of June 21, 1999 were presented for Commission approval. Commissioner Al Padilla made a motion to approve the Minutes of June 21, 1999. Commissioner Helen Baca seconded the motion. Motion carried.

## **PUBLIC REQUESTS**

**(Limited to two (2) minutes per issue) At the Discretion of the Chairman.  
For Information Only.**

Leonard Garcia representing the Meadow Lake Community Association stated that in February he started attending the Commission Meetings and one of the reasons was public safety on MeadowLake Road. He said public safety on Meadow Lake Road has not improved since February. As a matter of fact it has gotten worse. The reason for that is that the road was double stripped. Nobody knew who requested the double stripping on Meadow Lake Road or any other roads in the vicinity. He asked the Commission if they knew what the double stripping on the road means.

Commissioner Eloy Giron responded that the double stripping was done sometime in March or April. He said he met during the past week with Mr. Garcia and James Fernandez. He said he received numerous calls that there were roads all over the County that had been double stripped. His biggest concern is in his district, which is MeadowLake.

County Manager James Fernandez stated that the road was double stripped because they were having some difficulty with some gravel trucks, it was done primarily to slow down the trucks. There were some concerns regarding safety with those trucks passing individuals. That was the intention for the double stripping.

Leonard Garcia stated that now that the trucks are gone, what is the purpose of the yellow stripping.

Commissioner Eloy Giron stated that Mr. Garcia was not the only one that has called him on this issue. Back in spring when they did have problems with the gravel trucks, that was the way of curbing some safety issues out there. He said maybe at this time we need to go forward with the engineer that we hired and ask him to see if there is a need for the double stripping in that area. He came back to them with an excellent report on the condition on Meadow Lake Blvd. The Commissioners voted on other issues regarding issues on safety. He said it is his recommendation to have the engineer look into this issue.

Chairman Alicia Aguilar said the matter of the trucks has not gone away because of the litigation. She said during Public Requests the Commission does not take action. The concerns have been stated and documented and they can be looked into. She believes it needs to be addressed legally.

Leonard Garcia asked if the Sheriff could answer the question "What is the purpose of the yellow stripping on any road in Valencia County?" He said this is a safety issue and at this time there is a little girl in the hospital, on life support. They need police monitoring to keep people from passing on the road, where there are a lot of intersections and driveways.

Sheriff Juan Julian said the double yellow line means a no passing zone. Like Commissioner Giron said that was put up there to try to eliminate the problem they were have with the trucks. He said, "I provide a lot of support in MeadowLake and have put a lot of officers to work there. In doing so it took away from the rest of the county. Now I have to double up and try to provide service for the rest of the county. I cannot have an officer up there all the time like I did before."

Leonard Garcia stated that on Friday, June 2<sup>nd</sup>, 1999 at 12:30 PM, he was going up Meadow Lake Road and one of the Sheriff's people was coming down Meadow Lake Road. A person passed him in front of the Sheriff's Deputy and he did nothing.

Sheriff Julian said this was the first time he had heard about it and this is the 6<sup>th</sup> of July.

## **ACTION ITEMS**

### **(G) PUBLIC HEARING/FINAL APPROVAL/REPEAL COLLECTIVE BARGAINING ORDINANCE**

Dina Holcomb presented a new ordinance which would provide for the repeal of the Collective Bargaining Ordinance Number 1-93. The repeal of the ordinance is in collaboration with the current sunseting of the State Collective Bargaining Law, which occurred on July 1<sup>st</sup> and was also upheld in the Supreme Court decision on June 30, 1999. She asked that the commission take action to enact this ordinance, which will be effective in 30 days from today's date.

Commissioner Giron made a motion to approve Ordinance # 99-2, repealing the County's Collective Bargaining Ordinance number 1-93. Commissioner Pando seconded the motion. Commissioner Giron withdrew his motion and Commissioner Pando withdrew his second, for public discussion.

Dina Holcomb explained the Collective Bargaining Ordinance. She said, "Collective Bargaining began several years ago with several entities throughout the State and became a State Statute in 1992. It provided local option to enact your own ordinance and provide for Collective bargaining, which Valencia County did in 1993. Since then, the county has had a bargaining unit in the Sheriff's department, which went through negotiations. It never actually resulted in a Collective Bargaining Contract; they were not able to reach an agreement. Since that time the State Statute provided for collective bargaining has sunset effective July 1, 1999. There is no State Statute or mandate to bargain collectively. There is no law that would govern collective bargaining. In correlation with that, the county is now proposing to take action to repeal its own Collective Bargaining Ordinance which provides for negotiations with unions."

Commissioner Eloy Giron made a motion to approve Ordinance #99-2 repealing the County's Collective Bargaining Ordinance #93-1. Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit A)**

#### **(A) PRESENTATION & REQUEST FOR SPONSORSHIP FOR ATHLETES**

Becky Matthews introduced her husband John Matthews who stated approximately 4 years ago there was a person who worked with the county named Larry Padilla. He had a dream to start a track club here. They are called VCR, the Valencia County Roadrunners. The reason I am here today is to achieve financial support for this club. Larry started the club with over 50 members, one of the biggest clubs in the State of New Mexico. He said it really touched him about a week ago when he watched some of the athletes ranging in age from 9 to 18 years old at the University of New Mexico Track Club. Approximately 3 athletes had to be taken to the hospital due to heat exaution. Out of fifty members that are in the club, they had 15 that were qualified in the Jr. Olympics. He introduced some of the members of the club and they announced their names and what schools they attended.

He said several years ago he also competed in tournaments just like they did. He competed in two Olympics; he was a Pan-American Gold Medallist and placed in the World Championships. He said it was because of public support that he was able to accomplish these things. He asked the commission for financial assistance for these athletes. They need approximately \$6,000.00. They are going to try to raise at least \$3,000 of it. He ended with this quote "There is no exercise better for the heart than reaching down and lifting up people."

Chairman Alicia Aguilar asked where donations could be mailed. Yolanda Garcia stated that she is the President of the VCR club. She could be reached at 865-5705 or any donations can be mailed to 22 Orona Rd. Los Lunas, NM 87031.

Chairman Alicia Aguilar stated that the County couldn't make donations. By law they can not do that, however she personally pledged \$100.00.

#### **(B) PRESENTATION & REQUEST/BOYS & GIRLS CLUB**

Richard Jaramillo stated that there is a lot of need for children to be able to have physical activities as well as mentoring programs. He introduced the members Christina Jaramillo Chairman and Grant Coordinator, Bill Pearman President and Corporate Liaison and Diane Pope, Secretary.

Christina Jaramillo representing the Boys & Girls Club said she has been with the club for 7 years. It took them a long time to get established in the county because there is no Boys & Girls Club in the area. There are some clubs in Albuquerque, Santa Fe, Farmington and Carlsbad. She said getting it going in the county was quite difficult for them because people did not realize the impact that it would have on our youth. It took them a long time to raise the funds that they needed. In the beginning of 1997, they hired an executive director and they had the funds to do that from the Bureau of Justice. Unfortunately they were unable to keep the facility going. They closed it down at the end of 1997. They closed the doors due to lack of planning. In mid 1998, a group of people who really believed in the program decided to start the club again. In the end of 1998 they established an entire board. In the News Bulletin it was published that the Boys & Girls club loses funds. The funds were not lost they were reallocated to another club in the area. They received another matching fund in the amount of \$15,000.00 from the Regional Director. It was the same place where the funds came from in the first place. In the past 6 months they have achieved a lot of things. They talked to Belen Schools; they have pledged an enormous amount of support. She said they believe they will be receiving funds from them, they will be receiving a facility and possibly a means of transportation. They endorsed it with a proclamation. The Village of Los Lunas has contributed the use of the Daniel Fernandez Park facility for the Boys & Girls club and they are also in full support of the club. The City of Belen is working on what they are going to support us with. They have a matching grant, they have funds coming in, and they have fundraisers. There is a five-dollar per year membership fee per child. They have serviced 45 children during the school year and 110 during the summer.

Richard Jaramillo presented a proposal for facilities, funding, moral support, and letter of endurment from the commission, so that they can incorporate it into their packets, some assistance in regards to the transportation for the children. A lot of times the families don't have the money and in the event that the family is unable to come up with the money, the fund raising sector will accommodate the families. He asked the county to join them in establishing a sustainable and viable Boys & Girls Club.

Commissioner Frank Pando said "I highly support these people in what they are doing, they are doing a heck of a nice job. If it has anything to do with youth we all need to support it. That is our

future, they are going to be our next leaders, our next presidents, our next everything. I'll make a motion to that effect."

Chairman Alicia Aguilar asked James Fernandez, if they are obligating any financial support? She said they are just endorsing the Boys & Girls club. She asked Richard Jaramillo to draft a resolution and present it to the commission at the next meeting, so that they can review it and act on it.

Commissioner Eloy Giron said "I think it is very important for this commission to support the organization by a proclamation or resolution, when Ms. Jaramillo does go out to pursue these grants, they will be able to see the unification from all the different agencies in the area.

Commissioner Al Padilla seconded the motion. Motion carried. **(See Exhibit B)**

### **(C) REQUEST APPROVAL**

#### **FINDINGS OF FACTS & OF CONCLUSION FOR LOBO VALLEY**

Mike McCartney presented the Findings of Facts for Lobo Valley for final approval and also the Conclusion of Law. He said he worked with the County Attorney on this issue. Commissioner Al Padilla asked if this was in addition to the recommendations made by the County Planner Steven Chavez. Mr. McCartney said yes it was. It will be on file in the County Clerk's Office.

Chairman Aguilar said this document would summarize all of the discussions and all of the facts and findings and what is required of Mr. Otero for compliance of this final plat approval.

Commissioner Al Padilla made a motion to approve the Findings & Fact and the Conclusions of Law for Lobo Valley Acres. Commissioner Eloy Giron seconded.

Matthew Otero said "My attorney hasn't been aware of this situation and neither have I. They have been working on some of this stuff to get this situation finally resolved. I would like a copy of what is being presented."

Commissioner Eloy Giron stated that he would also like to submit a copy to the News Bulletin. He said he felt like Herman Tabet because for a month and a half he felt like a kicking child on something that he knows they did right. It protected the residents in that area.

Commissioner Al Padilla stated, "On any issue that the County Commission votes on, in respect of whether it is my district or any of the other Commissioner's district. Our responsibility is to adhere to the issue at hand in the area. We are all responsible in our conscious in voting in what we feel is in the best interest of the people, because ultimately when the vote is taken it takes a vote of the majority of the Commission and we are all going to be responsible for whatever issue transpires and is approved. Not only for us, but Helen or whoever's district it is. It is ultimately the responsibility of all of the Commission. We are all elected to represent the County as a whole, not just my district even though sometimes they will say, "it's your district, what do you recommend," the responsibility is all of the Commissioner's, not one. We are all one Commission and we are all elected from the County. I want you to understand that."

Mike McCartney stated that Mathew Otero was fine with the agreement.

Mathew Otero commented on the situation that happened. He said, "It has been frustrating for everybody. I would like to thank Mike McCartney and all the Commissioners. We approached this in a positive way. The way it turned out wasn't very fun. Our intent was to do a good subdivision. My assumption is that this had been done. It is just to clarify to the public what is going on with Lobo Valley Acres. I appreciate the help from you."

Commissioner Frank Pando said, "I would like to see these Facts and Findings just as it sits right here posted at the Church in Tome. I'm getting tired of them throwing potatoes at me. I'd like it posted on a wall so they will get off of our case."

Chairman Aguilar called for the vote on Commissioner Padilla's motion to approve the Findings of Fact for Lobo Valley Acres. Motion carried. **(See Exhibit C)**

### **(D) PRELIMINARY PLAT APPROVAL/CURFMAN ESTATES**

Mike McCartney presented a preliminary plat for approval for Curfman Estates Subdivision. A subdivision which contains 15.6 acres. It is located on Curfman Rd, 1 mile west of NM 314. The proposal for the subdivision will divide the property into 14 1-acre net lots. It comes to you with a recommendation for approval from your Planning & Zoning commission.

Steve Crawford said the property is located on Curfman Rd. They are proposing to subdivide it into 14 1-acre lots. The subdivision report has been reviewed by all the state agencies. They have approval letters subject to human error and publishing in the back of the report on all the ones that have been received. They didn't receive the last return mail from the Middle Rio Grande Conservancy District. Their comment was to pay the assessment and the assessments were paid and the receipt is in the back of the book that proves that the owner paid the assessment to the Conservancy. There has been a little bit of confusion on how the covenants were written on this project. I would like to state that it is the intent of the owner to prohibit the installation of singlewide trailers or used trailers in this project. There are no camper trailers, no single wides. The intent is for any manufactured housing that is installed to be put on permanent foundation. That matches with the recent changes to the Mobile Home Installation Ordinance.

There was a question regarding the property raised late Friday and this morning with Mr. McCartney. The question was is, is this land currently being irrigated? The answer is yes. Mr. Crawford said he believes that the owner has made arrangements with Mr. Larry Hicks who lives on a parcel south and East of this project. Mr. Hicks was maintaining the irrigation on the land so he could get a couple more mowings on the alfalfa. There were also some questions about paving the roads. In this proposal, they clearly intend to put down asphalt on all the interior roads of the subdivision as shown on the plat. There is a piece of Curfman Road that is outside the limits of this subdivision that is currently not paved.

Steven Chavez said, "I have a short report regarding Curfman Estates. Mr. Crawford stated that he would clean up some of the restricted covenants in the proposal. I think they need to be cleaned up substantially regarding the manufactured homes. I think it was the intent as disclosed in the Planning and Zoning Commission hearing that the Mobile Homes that are going to be placed within the subdivision will be new mobile homes. I think that the language should reflect that. We can look at the language in the Mariposa Subdivision Restrictive Covenants and the language there can be used for this one, they are very similar. Curfman Estates is in my neighborhood, as an attorney and as your Planner I think that I am required to follow the rules of our county as well as the rules of our State Statutes. As an officer of the court I am required to interpret those rules and follow them neutrally. The subdivision proposal basically, is incompatible with the surrounding area. That is my personal opinion. My professional opinion is that compatibility is an issue we really can't look at, I don't believe we can. It is certainly an issue that this board can reject. It is just an interpretation of what we have existing as far as our rules and regulations and the state laws. I do believe that most of the homes and the parcels around this subdivision are 2 acres or more. This is certainly below that standard. Our rules and regulations require us to have a conference of plan and requires us to have articulable reasons for rejecting a subdivision proposal based on compatibility. I don't think we have those rules and regulations in place. I am not going to judge this subdivision personally because it is in my back yard, I am going to judge it as a professional. I feel a little unfortunate in doing that because it is in my back yard. They have met all required standards of our ordinances and our rules and regulations for subdivision approval. They do have water rights existing on there. We don't have an issue to deal with water rights. We don't have incentive programs to encourage developers to retain water rights. The one thing that we can do is we can require that these mobile homes have the appearance of site constructed homes. We can request that they have tie-downs and ground steps, which really enhances the appearance of the manufactured homes. It isn't more expensive for the developer; it is about the same. I'd like this board to mandate that they at least, have the permanent foundations. Also the restricted covenants should include language disallowing the used manufactured homes. The language should state that only new manufactured homes should be placed in this subdivision. I think that the language regarding the minimal standard for the County on manufactured homes should be placed in there. I would like to see the minimal floor space; the minimum heated floor space requirements in the county, which I believe is 844 sq. ft. If it is placed in the restrictive covenants I think it would help the purchaser. It puts the purchaser on notice that these are the requirements."

"Regarding road improvements, I think that a stop sign should be placed on the intersection of Curfman and Franklin Rd. If you look at the subdivision, it connects to Curfman Road directly. About 250 ft. East of the subdivision on Curfman is an intersection called Franklin and Curfman. The intersection appears at about a 53 radius or 53 half turn. I think it can be a problem with the traffic in the future. There should be a stop sign coming from the subdivision on Curfman Road and the expense should be borne by the developer. They have a 2" base with a 4" cover over it. There is about a 200 strip of unpaved road just East of the subdivision on Curfman Road directly outside of the subdivision, which is just gravel. I think that is dangerous. Traffic, if they have to stop, they are going to slide from Curfman Rd. I would like to see the developer pay for at least half the cost of paving the road, in the next year or so. I think that they can share that cost. I would like to request that it be a condition of approval."

"In the description of this proposal they are technically in the valley, or in the Albuquerque basin with the underground water. They are in the valley, the very western edge of the valley. They are within the Rio Grande Valley basin. The State Engineers approved the water plan, the environmental department indicated that the only condition that they will impose is that the soils be imported as a few individual lots. The percolation is a little bit faster there than other places so that they will require the importation of slower percolating soils. Otherwise they approved the environmental issues."

Chairman Alicia Aguilar stated that Curfman Estates is in her district. She represents Los Chavez. In looking at the plat map coming in from Curfman Road there is a 40 ft public road easement but yet the property is not within the road, so we are taking an easement that belongs to the lands of Luis R. Sanchez and also further down there is an existing 40 ft public road easement and public utility easement.

Steve Crawford said, "The 40 ft public road easement is an existing road easement that predated our subdivision and what we did, on our property we converted the 40 ft. road easement into public right of way on the land that we control, with the presumption that some day in the future the person on the other side the lot would in turn dedicate their half of the road. It is a very unusual configuration but what we inherited was a 40-ft road easement that sliced at a skew down the property line."

Chairman Alicia Aguilar asked Steve Crawford "If you have a 10-ft public utility easement existing and then you have an existing 12-ft irrigation ditch easement going along lots 5,8,11 and across the road and then 14 cuts at an angle, so if we look at lot five and the way it is split, someone would not be able to build or put their home in the middle of the lot because there is a utility easement."

Steve Crawford responded "There is a overhead power line that goes across a portion of lot five. That would impact the placement of their home. On an acre, they would have to avoid being under that power line with the placement of their home."

Chairman Alicia Aguilar asked, "Did you disclose that in the restrictive covenants, that lot 5 has limitations?"

Steve Crawford said that it is shown on the plat as on overhead powerline easement.

Chairman Alicia Aguilar stated that most of the time she has experienced some of the purchasers are lucky to just receive the disclosure statement much less a preliminary plat which they are supposed to receive. Most of the time they don't.

Steve Crawford answered "I would take it as a good recommendation that we put it in the disclosure, so that they do not over look that fact when they are buying that lot."

Chairman Alicia Aguilar said "I have another concern, that is to where it is talking about the quality of the water can be described as slightly mineralized soft and moderately corrosive. It has a sodium level exceeding 20md-l and an iron level of .50mg-l exceeding the secondary maximum contaminant level. We have some high sodium and iron issues. We also have some limiting soil conditions for the installation and functioning of a conventional disposal system. It goes on to say that absorption fields will have to be elevated above natural ground surface in order to provide the required clearance (4 feet) to seasonal high ground water table. The replacement of very slow or very fast percolating native soils with moderate percolating imported soils may be necessary for some elevated absorption fields. My question goes to Mr. Chavez. We do have regulations and they say minimum 1 acre. The regulations do not say it must be 1 acre. The one-acre would be with no adverse conditions or anything affecting the subdivision. Am I correct?"

Steven Chavez responded "I think you are partially correct, you are correct in that our regulations do say a minimum of 1 acre and there are technically adverse conditions with this subdivision regarding the soils and the mineralization of the water. I believe they have addressed each of those conditions. They've mitigated the facts of those adverse conditions to the extent that most other developers have done the same. The mineralized water that we have exists on both the East Mesa and West Mesa. The soil conditions can be taken care of with just the importation of either slower percolating soil or fast percolating soils."

Chairman Alicia Aguilar said "Taking into consideration the fact that we are here to address the health public and safety of the citizens and the fact that most individuals would say "I just want to put in a septic system" Is it true that most individuals would not read the entire preliminary plat disclosure?"

Steven Chavez responded "I think those conditions should certainly be disclosed in the disclosure statement. Apparently they are already."

Commissioner Frank Pando asked, "This irrigation ditch are you going to continue using it?"

Steve Crawford said that the irrigation ditch easement was provided on the plat. It is to provide service to the landowners to the East.

Commissioner Frank Pando asked if it was going to continue to be irrigated? Are you going to allow water on lots 4,9,10,11,8,5 and 14. Steve Crawford stated that it is the intent of this subdivision to not have irrigation going on in this subdivision.

Commissioner Frank Pando asked what would happen if on 4, they decide to water the lot and a kid in lot 5 is playing and jumps in the ditch, who would be responsible? Steve Crawford said that the ditch easement goes through to the underlying property owner. The primary purpose of the ditch easement is to provide irrigation water to the parties to the East. We have no control over that. They cannot abandon that ditch easement.

Commissioner Frank Pando asked "why?" Steve Crawford answered "Because it serves property down stream of us."

Commissioner Frank Pando said "Consequently there will be water on that easement running all the way down. How deep is it? Steve Crawford answered "It is a lateral which is about a foot deep and 2 1/2 feet wide. Commissioner Frank Pando said, "Who is going to be responsible for the maintenance? There is going to be some pretty big fights. If a person is trying to irrigate his 10 acres and the guy in lot 4,9,10,11 and 8 are saying that they do not want you coming back here to clean this ditch. How do you solve that?"

Steve Crawford stated that it is the same problem that we have all over the valley. Prescriptive right and easement ditches have the right of access that goes with them and people have to work it out and be neighborly and sometimes it doesn't work out as cleanly as others.

Commissioner Eloy Giron asked Steve Crawford "Can you at least have that in the disclosure statement?" Steve Crawford said "We can add that to the disclosure because it is about educating the potential buyers of these lots as to what might cause some aggravation in the future. That is the purpose of the disclosure statement. We hope that everyone reads it. Sometimes they don't."

Chairman Alicia Aguilar said "If we are using reality. You have a ditch easement and I own the property that is identifite from this ditch to irrigate my land. How many fences am I going to have to jump to get to the ditch to clean it up? If you're saying we can't abandon it, whose responsibility is it? The person who is going to irrigate is going to say I benefit. The property owner is going to say I don't benefit from it so you should clean it. How do you address it?"

Steve Crawford said we need to make sure that people don't fence across these. They are not supposed to, but they need to educate whoever is buying these lots that they are not supposed to fence across the ditches.

Chairman Alicia Aguilar responded "We are going to have an individual paying 35-40 thousand dollars for a lot and you are going to say that you can not fence your lot, you have to chain you dog. You have other individuals coming out to your property to get benefit of the ditch.

Steve Crawford said "That is how it is done and that is what an easement means. When you buy land it means that other people have rights.

Chairman Alicia Aguilar said, "I beg to differ with you that maybe it has been done in the past but we do have a responsibility to the public and health safety welfare. Just because it has been done in the past doesn't mean we have to continue in the future."

Commissioner Frank Pando stated, "He sat in the Planning and Zoning Commission for a long time. We had a subdivision that is right off El Cerro. It has 50-80 acres. It is a beautiful piece of land. The subdivision didn't go through because of the irrigation. Nobody would take responsibility as to if a kid falls in the ditch or something like that. Whose responsibility is it? There has to be some mechanism in place for the guy who is watering his land, you can not deny him the right to water his land. But yet he still has to go through the 4 or 5 lots in order to get to the main ditch so he can open the wheel. The problem we have in Valencia County is that we have people coming in from

all over the country. These people see water and they don't understand the significance in the strength."

Chairman Alicia Aguilar said, "I would like to move that there would be approval with conditions. The size of the lots will be 1 1/2 acres net, it would exclude the road, we will be taking all of the recommendations of the County Planner, we will want a bond of 125 %, the paving of the road will be the responsibility of the subdivider and not to be shared with the county. There is to be irrigation to all of the lots. If you have a ditch going through there, the property owners should benefit from it. I would want for you to get together with the Planner and Mr. McCartney and address the safety of that ditch, whereby the lots should be reconfigured whereby they line up where the ditch is along the back side of the lots which would be a possibility so that if individuals fence their property, then there isn't an issue of a child being hurt. I would also like to see a maintenance agreement between the property lot owners on the irrigation. I would also like to see permits for the septic systems be obtained prior to final plat approval, that way we know before hand what those purchasers are having to deal with. If they have to bring in soils or whatever conditions are there, whatever we've stated, I would like for it to be addressed in the disclosure statement."

Commissioner Frank Pando seconded the motion.

Jim Smith said, "I don't want to speak out against the subdivision, what the hell, look at the way Valencia County is going. What I would like to point out, we are talking about changing the little piece of gravel road. What is going to be done with the rest of Curfman Road that comes off of 314? About every other week we've got three or four people coming through in a pick-up patching the pot holes and before they have left the pot holes are there again. Now this joker wants to put some more down through there. We are going to have a lot of traffic on a road that is not substantial for what it is handling now. The other thing that I would like to question is, I don't quite understand what the covenants are going to be and I think that it is all fine and dandy that you people do require some kind of covenants on these subdivisions. Who then enforces them? There are covenants on Joyce acres that contains all of the property from the irrigation canal, down and around to Curfman. I alone in 1975 brought suit against some people there to keep out a trailer, now we are going to just let trailers just flood in everywhere. It doesn't seem to me that there is any justification that it should be up to the land owner to jump up everytime somebody wants to break those covenants. What is the sense of even putting covenants in the first place, if it is up to the property owners to have to file suit against the neighbors everytime they break them. That seems to be the way it is. My chief concern, you're talking about the water. We live directly below that. A couple of years ago the whole area was flooded because of the irrigation up there that was being done by the guy that had the land leased at that time. They go out there turn on the water and walk off. The whole area was flooded. There is another lateral that is directly to the south of that that runs behind all of the existing land on Joyce acres and I am one of the lone users of it. I sympathize with what you are saying about the landowners having to maintain the ditch because that goes across 6 property owners before it gets to me. None of the above use it. So guess who the dumb ox is that has to go out take care of the ditch so that I could use it. Aside from the fact that there is not one inch of the ditch on my property. Now you're talking about another ditch. I know the fellow down below that has part of this property that the ditch was put in for, for his use. He said that nobody was going to use it above. Now you say that each one of these lots should have irrigation rights and I agree with you. It is asinine to have a ditch through your property when you don't have access to it. It is nothing, since it is only a dirt ditch to go out there and chop a hole in the thing and there you've got a ditch. As I understand New Mexico law everytime you use anyone's water you have the right to use it. I wonder who else is going to use the ditch."

Chairman Alicia Aguilar responded "That is why I am requesting maintenance agreement and usage of the ditch so that it can spell out who gets to use it, who cleans it all of those conditions. What we have today is a proposed subdivision for 1-acre lots and we are saying no, it has to be 1 1/2 net excluding the roads. So before he could even get a building permit all of the conditions stated must be met. He does have to come back for final approval. He can't do anything."

Jim Smith said, "Let's stop and just talk about paving that one little piece of gravel road. I have lived there even before Curfman was paved. I know what we went through to get that paved and all we have is a top on the dirt."

Chairman Alicia Aguilar said "Let me mention Mr. Smith that what I have been trying to do and I realize that in Los Chavez there hasn't been much paving in the past. What I have been trying to do is pave the main roads. Curfman is on the list before I start working on the small residential roads. John Road is to be paved and Curfman. The county only get about \$500,000 a year for paving and that has to be split among 5 districts. They have to allocate the funds. Hopefully within the next year you will see improvements to Curfman."

Commissioner Eloy Giron said he has lived in Valencia County all of his life. He does not like the way the County is being split up. There are laws that they have to abide by. He said he gets a lot of calls from people wanting him to deny some of the subdivisions. He is tired of hearing complaints and problems. He would like to hear some solutions.

Dale Jones said the Soil Conservation District did approve the data for this subdivision. He said, "I wasn't going to make a statement on this one until Steve made his comments. They upset me a little bit because there is another subdivision coming up today that we did make some comments on and I want to make sure that the Commission at least considers the business of compatibility. As I understood what Steve said, it is his interpretation that compatibility should not be considered and if this is legal and your lawyer tells you that you don't have to consider compatibility, then I guess I have to sit down, but my understanding of the way the regulations are right now is that you can consider compatibility. Just as the Chairman considered the minimum of one acre, you can consider compatibility."



Steven Chavez said, "I agree with Mr. Jones, compatibility is an issue that the regulations do allow for, but State Law requires that before we look at compatibility that we have a Comprehensive Plan. State Law also requires that we have articulable basis for looking at compatibility. We have to stay away from arbitrary capricious decisions and that is what the Courts look at. Compatibility for subdivision like this, we have to provide the developers with notice, reasonable documented notice that these are the means that we are going to address compatibility. We have to look at whether or not the acreage of existing lots within 500 feet or within a mile or a quarter of a mile or whatever, that the developer know what we're looking at before we come to these public hearings. Developers have to have this notice. It is called due process and without articulable basis for a compatibility analysis we cannot look at compatibility although it says we can in our ordinance. State Law disallows it without a comprehensive plan to deal with compatibility."

Chairman Aguilar said, "With the moratorium and with the new graph that you will have on the zoning ordinance plus reviewing the subdivision regulations and the land use element of the comprehensive plan, we will be able to address compatibility." Mr. Chavez said, "Absolutely." Chairman Aguilar said this is one of the last subdivisions that is coming before the Commission. Anything else is subject to the new regulations.

Steven Chavez said, "I think we should put developers on notice now that very soon with the next subdivisions after these, that we are going to address compatibility and land use very strictly."

Michael Lundmark said he is in a similar situation in Los Chavez. He receives irrigation water through easements going through other people's property. He said there are a couple of issues he would like to point out, the first being that the more people that have access to a communal ditch creates a problem that there is more of a chance of failure in human character to maintain a certain amount of the ditch. It creates a problem for people that are down stream. The trash goes into the ditch and the failure to cut the weeds, the failure to maintain the ditch, animal usage across the ditch, safety issues, access to the ditch because when someone downstream uses it they have to travel the entire ditch line and make sure all of the turnouts are closed. Mr. Lundmark suggested that the irrigation ditches should be paved so that the people who irrigate downstream can do so more efficiently.

Mr. Lundmark said the compatibility issue is important because when you have 1.5 acres, by the time you get houses, barns and corrals, what you end up with is you are irrigating 12 square yards, but when 14 people are using the water, it gets turned on 14 times and it almost becomes impractical. He said it is possible to irrigate 1.5 acres, but it is impractical. He said he believes that larger parcels will enable a person to irrigate more efficiently.

Chairman Aguilar said with the new zoning ordinance that is coming out, there will be two zones for irrigated land in the valley so that if it is irrigated land, the lots will be a lot larger preserving the agricultural and making sure that it has irrigation.

Jan Garland said she lives across the street from the proposed subdivision of Curfman Estates. She said she is a realtor that is how she makes her living. She has talked to some of the people on Curfman and Franklin Road and very few of them were aware of the subdivision. She said there is not a housing shortage in Valencia County. She said, as of yesterday there were 128 manufactured homes for sale on the market. As of yesterday there is 441 single-family residences for sale on the market. She did not touch vacant lots or land that is for sale to put mobile homes on or stick built houses. The area has been a beautiful area to live in. She knows they cannot stop the growth, but she begged the Commission to have consideration for the families that are living there and have been there for years. She said she believes they need to slow up the growth and regroup and consider what is being done to their lifestyle.

Commissioner Frank Pando asked Ms. Garland if she would support an extension of the moratorium on subdivisions. She said she would.

Chairman Aguilar called for the vote on her motion to grant preliminary plat approval to Curfman Estates with conditions. Motion carried.

#### **(E) PRELIMINARY PLAT APPROVAL/Mariposa Subdivision**

Mike McCartney said the proposed subdivision is located on Andres Sanchez Road about 1.25 miles north of the I-25 Bypass Road. It will divide the property into 29 one-acre lots. There is a petition in the packets opposing the subdivision. He said at the Planning and Zoning Commission Meeting the motion was made to approve with a decrease density in the number of lots.

Steven Crawford said this subdivision is South of the Rasband Dairy. It is abutted on the West by the Belen Highline Canal but receives no gravity irrigation water because the water level from the Belen Highline Canal is four or five feet below the property. The property is higher than the water service in the Belen Highline Canal.

They have received letters from all of the State Agencies and are here asking for approval of the Preliminary Plat of Mariposa Subdivision.

Commissioner Frank Pando asked why the subdivisions were all being made for mobile homes and not stick built homes. Mr. Crawford said it has to do with marketing and looking at the area. He said on this project, if you look at the area to the North and the fact that the Rasband Dairy is there and you look at the fact that there is industrial zoning to the West of the property, it was the owners opinion that he would have trouble selling if he limited the area to stick built homes.

Discussion was held on why 30 acres was split off from a piece of property that is a dairy as well as irrigation to the property.

Steven Crawford said prior to the Planning and Zoning hearing, Mike McCartney did a routine zoning check using the official zoning map in his office. The zoning map in the Planning and Zoning Office is not 100% accurate. The map said the property was zoned AP. He said his client talked to the Edeals, and the Edeals said that the property was re-zoned in 1988. Mr. Crawford said they went to the County Clerk's Office and found the minutes of the meeting where it had been rezoned to RR.

On that basis they started the process with the Planning and Zoning Dept. and that was the representation to Mr. Price. He said because of that they hired Mr. Williams to answer that question.

Chairman Aguilar said, "If we go back, there was a notice on April 6, 1988, that was six days notice before the hearing. There was also another notice on April 10, 1988 and that was a two-day notice for the Planning and Zoning. On April 20<sup>th</sup> there was a five-day notice and on April 24<sup>th</sup> there was a one-day and there was a board hearing, but if we go back to zoning and what was there, I have read the legal notice and the first sentence of the legal notice puts the property on the East Side of Andres Sanchez Rd. and not on the West Side. In addition to that zoning, all of the adjoining property owners should have been notified. In reading the Planning and Zoning Minutes, many of these property owners came forth and said they were never notified. They did not know there was rezoning."

Steve Crawford said, "I cannot not speak for the past, but I don't doubt that what Mr. Chavez and your office pulled up, is what happened back then. I don't know what the practices were at that time in 1988."

Chairman Aguilar said, "The other adverse or unusual condition and you're indicating on your disclosure statement that the purchaser is hereby advised to not purchase a lot in this subdivision if this type of rural ambiance, smells, noises, business activity adversely affects the enjoyment of their lots, because you're saying that sometimes normal operations, weather conditions and seasonal changes will result in flies, smells, dust, birds and livestock noise impacting abutting property. If we go back and we look at what is there and that is a dairy. How far is the lagoon from this property?" Steve Crawford said it is not on the South side of the property. He does not know where it is.

Scott Rasband said, "I own the dairy. The lagoon is on the North side of the property. That is probably 1000 feet away." Chairman Aguilar said, "I bring that up because in the past, there have been issues and right now there is possible litigation whereby you do have agricultural, you do have a dairy and then you will allow a subdivision to go in and eventually those individuals, you may say there is a dairy nearby, but it doesn't matter. You're going to have a population of 100 or better here and they are going to start complaining and start talking about the water with the dairy nearby and we are the ones that are going to have to deal with it. For someone to say it's on abutting property and we don't have to worry about it, we do have to worry about it." Mr. Crawford said, "That's why it is in the disclosure statement."

Chairman Aguilar asked, "Are you telling me that you couldn't have irrigation to the property?" Steve Crawford said, "Without installing irrigation wells and lifting pumps, there is no gravity irrigation from the Belen Highline Canal to the property." Scott Rasband said he farms 12 acres to the South of the property and he irrigates just fine. The irrigation runs right through the property, you can irrigate all but maybe five or six acres at the very top of the property."

Steven Chavez said, "There is a Memo regarding my recommendations, I finished reviewing Mr. Williams letter regarding the zoning. This is a legal issue and I think Mr. Garde should have a chance to review it because it has substantial implications. I think he should have ample opportunity to review the implications of it. You touched on it, the notice requirements were not met and if there is a defect, whether it's a substantial defect I'm not so sure, but there may very well be one. The six days notice prior to the P & Z hearing and two days notice prior to the P & Z hearing on the second notice, then regarding the Board hearing and the five day notice and the one day notice. When Mr. Williams addressed the issue, and he is a very competent land use attorney, but he was not asked to look at this issue, he was asked to look at a legal description, but he didn't look at whether or not there was a notice defect. I think there is a notice defect and there is case law to support who needs to be in substantial compliance with the public hearing notice requirement (Section 14-20-4B) in the zoning statutes. In the case law I'd like to direct Mr. Garde to look at this. There was a case very similar to this in the City of Albuquerque where there was a 19-day notice when their ordinance required a 20-day notice, much more than the State requires. That's ok, we don't strictly construe these ordinances, one day is ok. I think it should be looked at with an eye towards whether or not it was met. If it wasn't met, State Law requires that all subsequent zoning actions or land use actions regarding that parcel are void because we are talking about due process, a minimum due process requirement. There are no statute of limitations because it is a due process requirement. I think we should put off all other issues until this is completely resolved. In Mr. William's letter, he is correct that there is a minor defect in the legal description, but it certainly not a substantial defect. Mr. William wasn't asked to look at the notice, he was just asked to look at the lack of legal description. There is no fault on him."

Chairman Alicia Aguilar said, "If you look at the Subdivision Regulations, we must act on this within 30 days. Otherwise there is an automatic approval to what the subdivider has provided." Mr. Chavez said, "That is correct in the final plat approval, but there is a statute in our ordinance and the State Statutes that allows us to deal with this 30 days later. It's in Section 4-4-5 and it basically states that the County Board either has to approve it, deny it or approve it with conditions at a public hearing within 30 days from this hearing. You can actually put it off until the next two weeks."

William Schover said if there was a due process failure against the zoning ordinance documents as it was written at the time, he asked that that be resolved prior to taking action on this issue.

Marcel Reynolds said there are efforts going on to correct insufficiencies of past zoning and different regulations. He said he sees the correction coming but what is being used as a basis now. He spoke on three issues, farmland preservation, the density factor and compatibility with respect to the current law.

Margaret Bowers spoke against the subdivision.

Chairman Alicia Aguilar said, "This is in my district, we've heard testimony and I'm also concerned about the zoning to rural residential from agricultural preservation. I'm concerned about the location. There is a dairy and we need to be realistic that there are animals around especially if they are putting it in their disclosure statement that there are smells, noises and business activity."

We have a gravel pit further South. We have an Industrial Park to the West. We have additional traffic on Andres Sanchez Road and John Road, so there are many concerns there. The water, it is saying that the sodium is exceeded. They also are talking about contaminant levels. The Soil Conservation recommendation is that the lots are to be a minimum of 2.5 acres in size and that the irrigation water be maintained to these lots. I'm going to make a motion that the lots be changed to 2 1/2 acres net, that will not include the easements or the roads, and all of the recommendations by the Planner. I would like to see 125% bond. I would like to see the restrictive covenants cleaned up to reflect the changes plus also to talk about the developer having the responsibility to enforce the restrictive covenants until all lots are sold. As it is now only two people, Mr. Price and Mr. Price would be the architectural control committee, but the disclosure statement does not address enforcement and responsibility and I think it should be. As I mentioned there should be irrigation to all of the lots. Mr. Rasband's easement needs to be disclosed on the plat so that he can continue to irrigate and if need be, the developer should contact the Conservancy District about the water. I would also like to see an irrigation maintenance agreement among the property owners so that we know where the ditches are going and how they are going to be maintained. That is my motion."

Commissioner Frank Pando said, "I will second that motion and I would only ask if you could perhaps encourage stick built homes instead of trailers." Chairman Aguilar said, "I amend my motion to encourage it. I know we can't force it and we can't discriminate, but if they could, in the restrictive covenants that it be both for stick built and manufactured homes, then we're not discriminating, we're saying it is for both and it's being disclosed."

Michael Lundmark recommended that not just easements be placed on the map, but irrigation systems be put in place and the developer install the turnout from the Belen Highline Canal at his cost.

Chairman Aguilar said when she mentioned in her motion that the developer needs to contact the Conservancy District that is what she was talking about.

Marcel Reynolds asked if the discrimination factor having to do with manufactured housing applies only to government agencies and not the developers.

County Attorney Tom Garde said, "By the Commission directing what the developer should or should not do, that in fact is discrimination."

Chairman Aguilar said, "There is one other issue that I failed to address in my motion and that is where I'm talking about cleaning up the restrictive covenants, it's talking about only a single car attached garage. What if they want a double garage?" Steve Crawford said, "I think it means a single detached garage as opposed to a single car." Chairman Aguilar said, "I think it needs some clarification."

County Attorney Tom Garde stated, "We're here today to make a determination for preliminary plat approval. The options that the Commission has are to deny, to approve or to approve with conditions. Ultimately a Court will have to decide whether or not this AP or RR if it gets that far. That is not the purview of this Commission. The Commission's only responsibility is to make a determination based on those three options and for this Commission to decide what the zoning is."

Motion carried for conditional approval for 2 1/2 acres net and all of the conditions as stated.

#### **(F) REQUEST PERMISSION TO PUBLISH/Solid Waste Amendments to Ordinance**

County Attorney Tom Garde stated, "Based upon the request of the Commission prior to any negotiations with Waste Management or issuing our rules for solid waste, in reviewing our current ordinance, I've prepared an amendment to the current ordinance that will allow us, 1. To contract with a solid waste entity for a period of more than one year, which is the current limitation in the existing ordinance. 2. If in fact the County does go into the Solid Waste Authority with the surrounding municipalities and purchase Tri-Sect, this will require that the dumping will occur in Valencia County and 3. The amendment provides for a consumer price indexing that if in fact there is an increase, that the amount charged by entity be increased appropriately. The next division provides for a collection fee of 4% for residential and 5% for commercial and this will go to the County so that the County can update and increase the zoning office to provide for services to the County. This is merely a request to publish. There will be a public hearing on this at the first meeting in August."

Commissioner Frank Pando said, "This is not cast in stone, all we're doing is publishing this so that we can get input from the public, is that correct?" The County Attorney said, "This is only a request to publish."

Commissioner Eloy Giron asked if the only amendments that will be discussed at public hearing are the ones that are disclosed in the draft. Tom Garde said, "Those are the proposed amendments to the existing ordinance." Commissioner Pando said, "If that is the case, what if we wanted to add additional amendments to it. They cannot be discussed then?" Tom Garde said, "If the changes pertain to other sections of the ordinance, then we would have to go to publication on those also." Commissioner Pando asked why couldn't they be done at one time. The County Attorney said, "If we knew what those changes were, they could be."

Commissioner Pando said, "I would like to add, basically a repeal of the ordinance where you don't limit the County to do business with just one entity. I love competition. I'm a businessman and have been in business for many years. As long as other people want to do business in Valencia County and put up with all of the different regulations that we have that include inspections, the EID inspections, bonds etc. I don't see any difference between Waste Management and Landfill Hauling or whatever their name could be. I just feel that the way we are going right now is we're still leaning towards one particular outfit. I've always been opposed to that. I don't think it's fair to limit yourself to one."

Commissioner Eloy Giron said, "I'm going to have to jump on the coattails of Mr. Pando. For three years I've been trying to do this. I was never for an exclusive to one hauler. I still haven't changed my mind on that. I believe that the residents of Valencia County have a right to choose whom they like to do business with and how much they want to spend. As long as they are abiding by the regulations that are set forth and tipping at an approved landfill, I can't see why we are going to

start limiting business and controlling business like that. I see a bunch of us up here that own our own businesses and we're not controlled separately like that and I don't see that is fair. I'd like to see an additional amendment on there also, allowing Valencia County residents to choose who they do business with as long as they abide by all of the regulations."

Chairman Alicia Aguilar said, "From what I understand, Commissioner Giron you're saying repeal the ordinance. If we repeal the ordinance, then we don't have an ordinance, so we have to start from scratch and address whatever issues we want to address. Is that my understanding? My understanding is that this is a request to publish. If it brings out discussion and if we see at that time that we do not want to go with the ordinance or if we do want to make any amendments, we've done it in the past, to where they would just need to be re-advertised, correct?"

Tom Garde said, "For us to, at this point, the only thing that we're requesting is notice for these particular items. We would have to redraft new amendments to reflect what Commissioner Pando is requesting. Right now I don't have anything in concrete as far as what the request is. We have to provide a draft to Commissioner Pando if that in fact is what he wants. At this point we need to request to publish what we have now. If at the next hearing, the Commission has another amendment to consider, then we need to go through the publication of that also."

Commissioner Eloy Giron asked if the recommendations made by Commissioner Pando could be added to the amendments that were being presented for publication tonight. Commissioner Giron said, "We have a contract right now and we're going to be making some amendments. If we can go ahead and add something to the affect that we'd be allowing the residents to choose a hauler, as long as these haulers would abide by the same regulations that we're asking for, instead of having to wait another two weeks and go to publish for another amendment and have a bunch of different public hearings."

Commissioner Pando said, "What I am asking for is, if I have to do it one way, then we all have to do it the same way. If I have to carry \$100,000.00 liability policy, then everyone has to carry the same thing. I don't want to make it easy for anyone or hard for anyone. I just want to make it fair and equitable so that whoever wants to do business in Valencia County has the right to do so, but they have to do it according our rules and regulations. They all pay the host fee and they all dump their waste in a licensed landfill. If we are able to obtain Tri-Sect, then we would ask that all solid waste picked up in Valencia County be dumped there and all proceeds go to Valencia County."

Commissioner Al Padilla said what he is hearing is that they want the contract to go off. Anybody that wants to come in, can just do it. Commissioner Pando wants to give everybody a chance. He said, "One of my biggest concerns three years ago was, it didn't go out for RFP's. If you want to do it equitably, then go out for RFP's."

Michael Lundmark said he has spoken with his neighbors about potential solutions. He concurs with Commissioner Pando and Commissioner Giron's assessment. The competition brings out the best in everybody. It creates efficiencies. It creates lower cost for the consumer. It creates a spirit of competition and proliferates down and creates a higher quality of life. He previously suggested that instead of giving an exclusive contract for the entire county divide the county into zones or districts and that individual haulers could bid on one or all of the districts within the county. Once a contract is issued for a district or zone, it would need to be exclusive for a period of time.

Chairman Aguilar said districting was discussed, but it was not an option. She said there had been a lot of meetings and a lot of discussions in the past whereby they wanted to address the recycling and have a recycling program at the transfer station. They wanted to look at Conejo Transfer Station and take it out of the contract as it is now. They wanted to make sure that they got the fifty cents per household as revenue coming back to the county to hire more enforcement officers. There were ten conditions that they were trying to address and all of them have been discussed.

She said, "In addition to that, it's even the hauling of the trash or the solid waste from Conejo and the cost of it going to Rio Rancho, because we don't have a landfill now. We did discuss the existing contractor and even going out for RFP. It is my understanding that there isn't one that would be able to handle the entire county as far as going out for bid. We discussed them subcontracting. That is still in discussion. There may be some arrangements or may be something with Waste Management where the contractors could keep their areas, but we would be able to make sure that the garbage would get picked up the way it used to be. They concurred with that. We discussed mandatory trash pickup, but because it would require a different department and a different billing by the county, we said if this is what we're going to address, let's look at that as a goal. That's where we're at a few years from now. All of these items have been addressed. That's what we're looking for, but as I understand from the attorney, is that we request to publish on the ordinance to bring the discussion to the table. That's what we are doing."

Commissioner Aguilar said, "Let me mention one other thing, this was done three years ago and I felt that the concerns were, there wasn't competition, and that was a problem that was discussed. Private property without due process was another issue that was discussed and in putting individuals out of business. There was no solicitation of competitive proposals to grant the best available bid. There wasn't any prior public notice on a lot of the actions that were taken by the previous Commission. We also, in doing this, need to address the fundamental concerns that are raised by the trash hauler and the citizens and make sure they are equitable and they are in the best economic and environmental interest for the citizens of Valencia County. That's how I look at it. Once this is published, we'll know if we need to amend it or if we need to repeal it, but let's at least hear from everyone before we make a decision."

Charles Apodaca requested that the existing companies that were licensed in 1996 be grandfathered in. He believes it would be in the best interest of the residents and his best interest also that they be allowed to go out and obtain their own customers. He said he has spoken to the

entire Commissioner's with the exception of Helen Baca. He asked how they felt about this issue. He said some feel they would like to vote on allowing them to be Grandfathered in and others don't feel that way. He said he believes if they are allowed to be Grandfathered in, they will be given a chance to do business in Valencia County. The other way of going out for RFP, they will be competing against a million-dollar company. He said the playing field is not very equal. He said, "If you are to let us do business here in Valencia County, such as we've been doing, according to the Commission, I've been doing business illegally. I said, go ahead and fine me and we'll go to Court. They did cite me and the citation was dropped. For what reason I don't know, but I wanted to go to Court to see if what was put in place was legal or not. I was not given that opportunity. Now, I don't see any reason why the companies that were in business three years ago cannot be grandfathered in. We haven't hurt each other. We haven't hurt Waste Management. We haven't hurt the other small companies doing business. The people are getting their trash hauled and nobody seems to have a problem right now. You're trying to make an amendment right now to enforce the laws that were put in place three years ago to make sure that the small trash haulers aren't allowed to business here. That's an injustice to us."

Mel Sisson said he operates Peralta Disposal & Recycling. He said he hopes this is the beginning of a process that will allow discussions, further meetings and input sessions before the Solid Waste Ordinance is rewritten or award a contract to a company that is worth millions of dollars. They need time to allow the residents of the County to know what is available to them. The ordinance should be written to address the needs of the County. He said he wants the opportunity to make a formal proposal to the County Commission.

Lee Davis said she recently moved to Valencia County from Bernalillo County. She said they passed an ordinance in Bernalillo County that said all of the residents of Bernalillo County had to have their trash picked up. An additional ordinance said the contract would be given to one specific provider. That took away the residents freedom of choice. They could not choose whom to do business with.

Chairman Aguilar said she attended a lot of the meetings when the previous Commission voted to bring in an exclusive hauler. She said one of the issues that people kept bringing up was the fact that there were so many large trucks going down residential streets and tearing up the streets. That was a reason for this being considered.

Commissioner Eloy Giron said, "I remember that lame excuse that they gave us three years ago that there were too many trucks on the roads, but we live in Valencia County and if we are going to go ahead and start controlling the big heavy trucks, we're in the middle of hay season and we need to start controlling the big hay trucks. We have a bunch of subdivisions that we just approved and all of those cement trucks; we should go ahead and address those also. I don't buy that one."

Donald Honeyfield said he has been a resident of the County since 1952. He said when the County instituted a No-Burn Ordinance; a mountain of trash was created. He said he has some concerns, about recycling, mandatory pickup and if the exclusive hauler will pick up trash thrown along the roadway. He said if he pays a monthly fee he believes that should be a part of the service.

Marlene Feuer stated, "I believe as the amendment is written, Section 5 addresses Commissioner Pando's concern. It says, 'Should the County contract for the collection and/or disposal of Solid Waste,' I think by advertising and adopting this today does not get you into the fact that you have to do an exclusive contract. I believe the document before you addresses that concern. I'm speaking before you in support of it. Commissioner Giron I stood here three years ago very much like Mr. Sisson and Mr. Apodaca advocating a more competitive process and you can have competition in two ways. As Commissioner Padilla is recommending through an RFP process or through a free enterprise process as I'm hearing from Commissioner Giron and Pando."

"I am not a hypocrite. My name is Marlene Feuer and I am President of Waste Management and I feel that Waste Management can compete in any of those markets. I'm not concerned about it. I believe the thing for the Commission to do and I've sat through about 3 1/2 hours of your meeting. I've heard the concern of the health, safety and welfare of your citizens mentioned and I think that has to be a primary concern as an Elected Official. I agree with you. I believe the liabilities of all of the other concerns that this Commission has should come first. Before they worry about Waste Management or any other business in the community. I find it interesting and I sit here in amazement, I was forced out of business three years ago with all of my accounts taken away. Some of my accounts were given to Mr. Sissons, which is a good part of his customer base right now. There are haulers that continue to haul. Mr. Apodaca said he does not know why his citation was excused. Mine was not. My citation went almost to the day in Magistrate Court. I pulled away. I paid the letter of the law and I did that and was not in business in Valencia County for over two years. I can empathize with these gentlemen. I had done business in this community for over 20 years. I'm here to tell you that I'm here to do things in the best interest of the community. I would like, because I do have 22 years experience in the solid waste industry to point out some concerns that when you make your decision for what is best for your community, and I'm not going on record one way or another, I'm saying what I think you should do, but I think you need to consider, you go on the free enterprise system. My concern is right now and I brought this before you before as a contracted hauler, and even though the contract is not in force when we have gotten calls from somebody that nobody wants to service, that is a hard location, we service them because we are under contract. If you have a free enterprise system who is going to pick and choose what citizens get serviced and at what price. That's a concern. If you go on the free enterprise system, you no longer have control over the prices. Prices could be, for a resident in a difficult area much more than they are paying right now. Please take that into consideration as well. You have to protect those residents as well as the ones who want the right to choose. In Bernalillo County there is full understanding that it was a competitive process, it was an RFP process. They were divided into three quadrants as was suggested before; two of those three, Waste Management got initially. The third was given to another hauler that we merged with. The small hauler that was in the business never proposed, could not meet the standards, did not have the insurance, did not have the trucks and was not

landfilling at a Title D Facility, just so you have all of the facts. I don't want you misled, those can all be checked out with Bernalillo County if you choose to do so. The wear and tear on the roads is important. Also in a free enterprise scenario that you might suggest, on your franchise fees, if you will, the percentages, and your talking about looking at, who is going to make sure that your haulers pay that to the County. Who is going to monitor that? Who is going to monitor the insurance certificates? Are you going to be sure that they keep their insurance certificates up to date and their performance bonds correct? I just want to make sure that you understand that if you go from one way to another, we'll compete in any one of those manners, that you're adding some problems. I just want you to know that. I'm a little concerned that you make sure all of the haulers obey all of the rules and regulations, that the trucks are D.O.T. certified etc. because if not, and you're collecting license from them and they hit a child, God forbid or cause some other accidents. The deep pockets will be the County's. We will work with you in any format as long as what you do is in the best interest of the health, safety and welfare of your citizens. We do it in 40 communities. I have provided a subcontractor provision to the attorney by E-mail. That was a request I had gotten. I have been on the phone with Mr. Sissons and I have tried returning Mr. Apodaca's calls and he has tried returning mine. We've been playing telephone tag."

Commissioner Frank Pando asked Ms. Feuer who monitors her. She said she assumes the County does. If they were the sole contractors, they would produce financial reports showing what they are doing. She said there is a difference if you're monitoring one or half a dozen. Commissioner Pando said the way he understands the amendment is that part of that 4% or 5% is for enforcement. That is the goal of the County to hire enforcement people. He said, "By hiring a person and doing a quarterly audit to you, Charles, Sissons, Alicia and Al, whoever is in the trash business, I don't see any difference." Ms. Feuer said, "What you are talking about is, we call it a non-exclusive franchise." Commissioner Pando said he noticed in Taos County and various other counties, he is interested in the ones that don't have exclusive contracts. He said he sees Waste Management trucks everywhere. He asked how were they operating in Taos County. Marlene Feuer said, "In Taos County and I was up there a week and a half ago and we just went through a hearing with Taos County Commission, it is considered a non-exclusive contract. There are no other haulers. We basically haul everything there. No other haulers have come in to compete with us or because there are difficult stops to pick up. To come in and use the specialized equipment, when you have to get up the side of a mountain when there is probably 10,000 people in a county that is huge." Commissioner Pando asked, "If Charles or Sisson wanted to go to Taos, what would stop them?" Ms. Feuer said, "Nothing. They have to go before the Commission and get a non-exclusive franchise and provide a performance bond to the tune of a couple of thousand dollars and insurance. They would have to do all of their own billing and absorb the bad debt. I'm not disagreeing, if that is a choice of the majority of the Commission; we will compete in that type of field. I'm giving you some of the downside because there will be people, and again even though I have a non-exclusive, I go everywhere in Taos County." Commissioner Pando asked how it was done in Dona Ana County since they do not have an exclusive contract. Ms. Feuer said she did not know, but she assumed it was a free-for-all just as it is in Sandoval County. It is open competition, however they get no franchise fees, they don't regulate at all, they don't do oversight and they get no revenue.

Commissioner Eloy Giron asked Ms. Feuer if they had ever refused service to anyone. She said, "No, we have not, because we considered having the exclusive, therefore the obligation to provide service. I do know that, and I've used this example before, where we've had a resident at the very southern end of the county call us. We are providing service. They said they called other haulers and no one else would come out and provide the service. I can't verify that, but we do do that."

Commissioner Giron asked the other haulers if they had ever refused service to anyone and they said, never, at least not until the customer contracted with Southwest Disposal.

Commissioner Al Padilla said, "Mr. Apodaca was concerned a while ago because he didn't have any figures on how many people you provide for. Could you provide that?" Marlene Feuer said, "We provide to approximately 6,000 residences and I believe Mr. Sissons does about 600." Commissioner Padilla asked if Waste Management charges extra for picking up extra things. Ms. Feuer said under the current contract they do.

Elvia Tabet spoke on behalf of her son, Randy who owns Valley Disposal. She said when the contract came through three years ago it almost put him out of business. He has hung in there because he has had good people behind him all the way. Most of his business is in Rio Communities. He tries to stay in that area because he is not sure if he can go anywhere else. He makes a fairly good living. He was making a better living before this. He has lost a lot of customers. She said she does not understand how people can put other people out of business when you have been in business for twenty years. It is very hard to go somewhere else. She asked the Commission to do something that is fair to ones that are left here.

Benjamin Armijo said, "Most of you are aware of the road conditions in the County. There are little roads leading up to where I live in Peralta. They are narrower than the road he maintains from the County Road that is about 20 feet wide to my house. My road is 30 feet. There are about ten hundred curves leading to State Road 47. I don't believe there is a truck that is being used by the Waste Management people that can negotiate the curves without knocking the fences down. I used to live closer to the road and these trucks used to pick up the garbage at the churchyard. Quite often in backing up and making the turns, because of the size of the vehicles, they would knock my fence down. By the time I noticed, the truck was gone. That is one of the points I'm making. The Sissons System that picks up my trash now is doing a tremendous job. They do not leave anything on the side of the road that might blow off of the vehicles. They pick up everything."

Chairman Alicia Aguilar said, "What we have before us is the amendment to the Valencia County Board of Commissioners Ordinance #96-01 providing for the collection of solid waste."

Commissioner Frank Pando asked, "Is this all we're going to go with or are we going to go with what we discussed now?" Chairman Aguilar said, "My understanding is this gets it to publish where we can discuss it. If there would be some major changes on this and you want to add more then we would have to advertise it because it is a new amendment."

Tom Garde said, "That is correct. If we're going to modify the existing ordinance, I would need to have a draft prepared of the new changes that we are going to take to publication because what we basically have is the notice of intent to publish together with a summary of the new ordinance. I am not prepared to modify with language to address what your concerns are. From what I understand proceeding with a non-exclusive trash hauling ordinance. I am not prepared today to provide language that we can provide a notice of intent to publish that."

Commissioner Frank Pando said, "This amendment doesn't even have the right, as you guys have been pushing, to go to RFP."

Commissioner Eloy Giron said, "Let me bring something up that might speed this up. We have before some amendments to go out to publish and have a public hearing to change our ordinance. We've heard some additional items here that we would like to have added to this, but at this time you're not ready Mr. Garde to add these requests to this amendment." Tom Garde said, "That's correct." Commissioner Giron said, "We've heard the requests from the public right now. We've heard from Ms. Feuer. We've heard from the contractors. We kind of know what we want now, I mean we understand what you want now, from a couple of Commissioners and we've also heard from the public. How can we go ahead and add this to this. I don't feel like we're ready at this time to go out to publish for this. Can we go ahead and add a few more amendments to this to go out to publish and maybe go over it in two weeks from now?"

County Attorney Tom Garde said, "I serve at the pleasure of the Commission. I was given direction at the last meeting. This is what I prepared."

Commissioner Pando said this was discussed at the last meeting, but it never comes back in black and white.

Commissioner Eloy Giron said, "I feel at this time there are some additional items that need to be added to this amendment to clean it up. Ms. Feuer disclosed some stuff that could help us out. The contractors also added some stuff that could help us out. At this time I would like to table this item and have, I'm confused, we were supposed to get with Mr. Fernandez and then Mr. Fernandez would get with Tom. There are just a few items that I would like to add and the only one I would like to add right now is, I would like to allow county residents to have a choice on which they do business with. What really scared me was that some of the people have been refused business, but what has been said here is that they would never deny business. That would be the only option I would like to add. What I would like to do is make a motion to table this."

Chairman Alicia Aguilar said, "For clarification, for me as Chair, because we have had so many meetings that we've given direction to. If Commissioner Giron is going to table this, then I guess he should take the responsibility of drafting something for the rest of us. Everything has been said verbally and it changes from meeting to meeting so if you want a change, bring a draft to this Commission and let us look at it. I don't see how else we can do it."

Commissioner Frank Pando said, "I have to disagree with that. I would like to see us bring changes, but I'm not an attorney. I don't know how to do that. I'm not that good at writing all of this."

Chairman Aguilar said, "If you take the existing ordinance and if you read, which you said you had read it about ten times, go through it line by line. If there is something you don't like, cross it out."

Commissioner Eloy Giron said, "You directed this back at me that you wanted me to draft this up. I will go ahead and draft up the additional items that I have by Wednesday or Thursday and I'll get this to Mr. Garde so that he can get it back to Mr. Fernandez and the rest of the Commission. That's in the form of a motion to table this and go ahead and draft some more amendments to this. I'll have my request to Tom by Wednesday or Thursday and come back at the next meeting with the amendments to go out to publish." Commissioner Frank Pando seconded the motion.

Motion carried with Commissioner Pando, Commissioner Giron and Commissioner Baca voting yes. Commissioner Padilla voted no.

**(G) PUBLIC HEARING/FINAL APPROVAL REPEAL/Valencia County Collective Bargaining Ordinance**  
This item was heard before Action Item A.

**(H) PRESENTATION ON FOCUS 2050 REGIONAL PLAN**  
This Item was deleted.

**(I) APPROVAL OF MCH COUNCIL ROSTER**  
This Item was deleted.

**(J) VACATION OF EASEMENT/ Gail Reese, Agent AM Surveying Mike Shook**  
This Item was deleted.

Commissioner Al Padilla made a motion to convene as the Indigent Board. Commissioner Helen Baca seconded the motion. Motion carried.

**(K) INDIGENT CLAIMS/May 27, 1999 to June 24, 1999**

Barbara Baker presented the Indigent Claims from May 27, 1999 to June 24, 1999. The total amount of claims submitted is \$60,928.28. She asked the Commission to approve \$51,256.73 and to deny \$9,671.55.

Commissioner Eloy Giron and Commissioner Frank Pando were not present during this discussion.

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

Commissioner Al Padilla made a motion to reconvene as the Board of County Commission. Commissioner Eloy Giron seconded the motion. Motion carried.

**(L) COUNTY MANAGER'S REPORT**

County Manager James Fernandez reported on the following items:

- Received notification from the Department of Public Safety regarding the submission for reimbursement for the cost incurred during the recent disaster. He said, "For the public record I would like to resubmit that and notify the general public that we were denied our request for reimbursement. The amount that was submitted was \$48,748.00. It was determined by the Department of Finance and Administration that upon submission of this, they felt the County could absorb these costs." Mr. Fernandez said, "The process was not futile, by declaring a "State of Emergency" we were able to have the Federal Government come in, the Small Business Administration, and low interest, long term loans were made available to the public. About \$300,000.00 was loaned out to local residents. Even though the county was not able to be reimbursed, the public was serviced." Commissioner Frank Pando congratulated James for doing this. He has had many calls from people thanking him because they are able to fix their homes up nice.
- Will be having a conference call tomorrow with individuals from the Modrall Law Firm regarding the financing for the jail project. Mr. Fernandez presented a copy of the call letter. **(See Exhibit E)**
- Requested an additional Executive Session at the end of the meeting regarding the conference call. There are items that need to be brought to the attention of the Commission as possible litigation. Commissioner Frank Pando made a motion to have Executive Session to discuss possible litigation at the end of the meeting. Commissioner Al Padilla seconded the motion. Motion carried.
- Received a fax from the Middle Rio Grande Council of Governments regarding a meeting that is going to take place on Thursday, July 8, at 1:30 PM in regards to the High Capacity Transportation Summit.
- On July 2<sup>nd</sup>, Commissioner Baca, Commissioner Pando, Richard Chavez, Louie Pena and Mr. Fernandez met with the individuals from Highland Meadows. They have begun the process to clarify the roads in Highland Meadows that the County will be accepting for dedication and maintenance. This is the beginning of that process.

**(M) REQUEST CONCURRENCE FROM VALENCIA COUNTY RESOLUTION #99-33**

Carlos Montoya presented a request from DFA regarding the last two resolutions that were passed by the Commission. They would like for the Commission to identify the extra Gross Receipts that were transferred into the General Fund. He said they would be providing the printed form instead of the typed form that is now being sent to DFA. It will provide a better explanation.

Commissioner Frank Pando made a motion to concur that the money from the Gross Receipts was transferred to the cash balance in the General Fund came from unbudgeted revenues in the Gross Receipts. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit F)**

**(N) AWARD OF BID/Valencia Detention Facility Precast Cells**

Carlos Montoya presented Bid #496 for the construction of the Valencia Detention Facility Precast Concrete Modular Cells. There were two bids received. The recommendation is to go with the lowest bidder. The lowest bidder is Tindal Corporation Correction Division in the amount of \$605,000.00.

Commissioner Al Padilla made a motion to award the bid to Tindal Corporation in the amount of \$605,000.00. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit G)**

**(O) WARRANTS**

Carlos Montoya presented the last Warrants for the fiscal year of 98-99. The total amount is \$106,957.00. \$28,900.00 is out of the general fund.

Commissioner Frank Pando made a motion to approve the Warrants. Commissioner Eloy Giron seconded the motion. Motion carried.

**(P) EXECUTIVE SESSION**

Commissioner Eloy Giron made a motion to go into Executive Session to discuss potential litigation. Commissioner Frank Pando seconded the motion. Motion carried.

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

County Manager James Fernandez stated during the Executive Session discussion was held on the closing on the proposed site for the detention facility and potential litigation from local residents and the affect it might have on the bonding.

Commissioner Eloy Giron made a motion that the closing on the proposed site and potential litigation from local residents was all that was discussed in Executive Session. Commissioner Frank Pando seconded the motion. Motion carried.

**NEXT MEETING**



The next Regular Meeting of the Valencia County Board of County Commission will be held on July 19, 1999, at 6:00 PM in the County Commission Room at the Valencia County Courthouse.

**ADJOURNMENT**

Commissioner Al Padilla made a motion to adjourn the July 6, 1999, Regular Meeting of the Valencia County Board of County Commissioners. Commissioner Eloy Giron seconded the motion. Motion carried.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the July 6, 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: July 19, 1999**